

BOARD OF LEGAL DOCUMENT PREPARERS

Meeting Agenda - Monday, July 25, 2011

Arizona Supreme Court -1501 West Washington Street

Phoenix, Arizona 85007 – 10:00 a.m. - 2:00 p.m. in Conference Room 109

General Inquiries Call: (602) 452-3378 (Certification and Licensing Division Line)

Members of the Public May Attend Meeting in Person

For any item listed on the agenda, the Board may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to the Arizona Code of Judicial Administration § 1-202(C).

CALL TO ORDER*Les Krambeal, Chair*

INTRODUCTION OF NEW BOARD MEMBERS.....*Les Krambeal, Chair*

1) REVIEW AND APPROVAL OF MEETING MINUTES.....*Les Krambeal, Chair*

1-A: Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of June 27, 2011.

1-B: Review, discussion, and possible action regarding approval of the executive session minutes of the meeting of June 27, 2011.

2) REVIEW OF PENDING COMPLAINTS.....*Division Staff*

2-A: Review, discussion, and possible action regarding non-certificate holder complaint number 11-L027 involving revoked former certificate holder Lori Toon.

2-B: Review, discussion and possible action regarding the Honorable William O'Neil's Finding of Fact and Conclusions of Law with Recommendation report in complaint number 08-L008 involving certificate holders Karina Morales and Servicios Hispanos.

2-C: Review, discussion and possible action regarding the Honorable Jonathan Schwartz' Report and Recommendation in complaint number 11-L001 involving Julie Star.

2-D: Review, discussion and possible action regarding a proposed Consent Agreement resolution of the pending formal disciplinary action in complaint number 10-L033 involving certificate holders Judith Alspaugh and Capital Consultants Management Corporation.

- 2-E: *Review, discussion and possible action regarding a proposed Consent Agreement resolution of the pending formal disciplinary action in complaint number 10-L028 involving certificate holder Jacqueline Vigil.*

3) ADMINISTRATIVE ISSUESDivision Staff

- 3-A: *Report regarding the pending Petition to Amend Rule 31 to include an unauthorized practice of law exception regarding property management companies.*

4) INITIAL CERTIFICATION APPLICATIONSDivision Staff

- 4-A: *Review, discussion, and possible action regarding pending applications for 2011-2013 initial certifications.*

1. Veronica Rolley
2. Krystina J. Ehrlich
3. Sally Robinson-Burke
4. Sandra L. Place
5. Marius Cailean
6. Juan Torres
7. Jennifer Hazlett
8. Sylvia C. Moreno, PC (Sylvia Moreno)
9. Arizona Document Services, LLC (Rae MacLean)
10. Hispano America Immigration Services, LLC (Martha Barraza)
11. Paralegal In Motion, LLC (Jeannie N. Collins)
12. Docuprep Solution, LLC (Cassandra J. Wagner)
13. Wellth Life, LLC (Carissa Olson)
14. Alison N. Torba
15. Jimmie E. Cannon
16. AZTec Documents (Mitchell R. Varbel)

- 4-B: *Review of Business Entity Exemption Request for the 2011-2013 initial certification period:*

1. Sylvia C. Moreno, PC (Sylvia Moreno)
2. Hispano America Immigration Services, LLC (Martha Barraza)
3. Paralegal In Motion, LLC (Jeannie N. Collins)
4. Docuprep Solution, LLC (Cassandra J. Wagner)

5) RENEWAL CERTIFICATION APPLICATIONS.....Division Staff

- 5-A: *Review, discussion, and possible action regarding the following pending applications for renewal of certification:*

1. Lauri Anderson
2. Laura Atwood
3. Loray Bassani
4. Marley Beard
5. Sheri Bell
6. Peteris Berzins
7. Susan Beyette
8. Roger Binyon
9. Mary Carlton
10. Elaine Carlton
11. Aldo Castaneda
12. Jeannie Collins
13. Deborah Colon-Mateo
14. Rebecca Cruz
15. Edward Daily
16. Marcie Davies
17. Dan Davis
18. Roberta Dawson
19. Daniel Dawson
20. John Dawson
21. Kellie DiCarlo
22. Angela Eastlack
23. Michelle Esslinger
24. Jeffery Esslinger
25. Emil Estopare
26. Jean Farrell
27. Yesenia Feliciano
28. Cynthia Felton
29. Myra Ferrell-Womochil
30. Valerie Fishgold
31. Patricia Flores
32. Christopher Fortier
33. Susan Fuquay
34. Scott Gamboa
35. Patricia Garvin
36. David Goodman
37. Carla Gould
38. Jennifer Hammans
39. Elizabeth Harrison
40. Jennette Heath
41. David Hendrickson
42. Christopher Hill
43. Linda Hill
44. Diane Hobson
45. Christopher Hoyt
46. David Hoyt
47. James Jenkins

48. Nannette Jones
49. Dawn Kaiser
50. Penny King
51. Mary Kortsen
52. Katherine Kredit
53. Jeanne Kuisle
54. Brian Lincks
55. Donald Lincoln
56. Tiffany Lloyd
57. Michael Mahoney
58. Jeanne Malys
59. Dawn Martin
60. Allen Merrill
61. Darlene Merrill
62. Nadia Meza
63. Brent Miller
64. Deborah Mojica
65. Pamela Moore De Gamboa
66. Sylvia Moreno
67. Marlene Morton
68. Brook Murray
69. Marcia Nolan-Malsack
70. Bonnie Ogden
71. Michael Olsen
72. Andrea Parisi
73. Nikki Parker
74. Samantha Philpot
75. Melinda Pierce
76. Vellia Pina
77. Aida Pompa
78. Lolita Prescod
79. John Price
80. Mary Jo Randall
81. Ronald Reed
82. JoAnn Regan
83. Arlene Rheinfelder
84. John Roads
85. Susan Roads
86. Michael Roberson
87. Nicole Roberson
88. Mary Rosenthal
89. Armando Saenz
90. Guadalupe Salinas
91. Phillip Salmon
92. Amy Sayler
93. George Shackelford
94. Jack Sides

95. Jennifer Skidmore
96. Edward Smith
97. Daryl Smith
98. Dawn Snead
99. Thomas Steele
100. Kara Stewart
101. Brenda Stuart
102. Janet Summers
103. Amy Swain
104. Jezzette Taillefer
105. James Tewalt
106. Jerry Thomas
107. Jesse Torres
108. Shannon Trezza
109. Betty Ulibarri
110. Mark Vincent
111. Cassandra Wagner
112. Christi Weedon
113. Chris West
114. Michael Whittle
115. Samantha Whittle
116. Billye Wilda
117. Eloy Wilson
118. Pamela Wilson
119. Andrea Winterhof (Telekesy)
120. Cynthia Wood
121. Erlinda Yount
122. William Zenk
123. Marilyn Zimmerman
124. Mitchell Varbel
125. Nancy Gilliam
126. David Bishop
127. Penny Burley
128. Karen Cooley
129. Ank-Kim Doan Pickell
130. Barbara French
131. Vivian Gallagher
132. Richard Getzen
133. Michael Law
134. Warner Lewis III
135. Brian Liu
136. Trina MacPhail
137. Raul Manzanares
138. Charles Rampenthal
139. Lisa Tonge
140. Alejandro Zalazar
141. Ranae Settle

142. Kristel Nielsen
143. Karen Kosies
144. Elaine Anghel
145. Deborah Albert
146. Martha Barraza
147. Jenifer Bone
148. Edith Funk
149. Richard Hoyt
150. James Jennings
151. Michael Anderson
152. Elizabeth Beatty
153. Antonia Bolle
154. Victor Calvario
155. Lindsay Cline
156. Christina Collura
157. David Enevoldsen
158. Dan Fore
159. Deanna Fore
160. Tannya Gaxiola
161. Joseph Glennon
162. Barry Goldman
163. Daniel Gray
164. Derek Haigh
165. Vicky Halleck
166. Mary Hopf
167. Christine Jerome
168. Kathleen Kindred
169. Leanora Lagas
170. Stephen Lee
171. Eugenia "Jeanne" Lien
172. Maria Lungo
173. Sandra Mejia
174. Michelle Messmer
175. Lupita Shestko-Montiel
176. Patricia Steward
177. Donald Steward
178. Karen Strauss
179. Patricia Taylor
180. Calah Thomas
181. Donna Vasquez
182. Sheila Webster
183. Jane Whitley
184. David Wilcox
185. Cindy Wong
186. Sandra Coffman
187. Tracey Dombroski
188. Stephen Glacy

189. Debra Griffin
190. Raymond Beltran
191. Tracy Boen
192. Bruce Davidson
193. Rae MacLean
194. Denisa Kaporalis
195. Renee Martin
196. Larry Heywood
197. Michael Chan
198. Sergio Diaz
199. Cindy McCoy
200. Karen Nogle
201. Marianne Smith
202. Georgi Aguilar (Willis)
203. Karla Wyrostek
204. Greta Shumway
205. Anabel Wright
206. Michelle Blake
207. Barton Stevens
208. Marwan Sadeddin
209. Thomas Brown
210. Mark Bluemke
211. Deborah Moldovan
212. Dawn Fountain
213. Dennis Lawrence
214. Daniel Taylor
215. Kenneth Singer
216. Melissa Tenny
217. Pamela Milburn
218. Janneth Cardenas
219. Sumer Jennings
220. Victoria King
221. Debra Pope
222. Jill Smith
223. Carol Gray
224. Darlene Landgrave
225. David Lerma
226. Carla Lief
227. Gregory Economidis
228. JoAnn Kramer
229. William Kelly
230. Donna Vangury
231. Carlos Galindo
232. Carol Aragon-Montgomery
233. Brenda Smith
234. Nancy Anderson
235. Mark Schmit

- 236. Ramon Garcia
- 237. Lillian Stephens Murray
- 238. Rochelle Hoekstra
- 239. Jacqueline Velde
- 240. Allan Bonhoff
- 241. Maria Gil
- 242. Kari Kirk
- 243. Betsy Ross-Retchin
- 244. Stephen Trezza
- 245. Elizabeth O'Connor
- 246. Deborah Burt
- 247. Sherrene Caley
- 248. Cynthia Bowman
- 249. Constance Havens
- 250. Valerie Burcks
- 251. Angela Darling
- 252. Grace Da Virro
- 253. Vicki Fink
- 254. Richard Fink
- 255. Shannon Kline
- 256. Frances Langston-Hancock
- 257. Karen Nogle
- 258. Nancie Raddatz
- 259. Doris Fields
- 260. David Goulet
- 261. Richard Slatin
- 262. Laura Pavey
- 263. Minzell Kelly
- 264. Sharlene Konenko
- 265. Cindy McCoy
- 266. Ronald West
- 267. Judith Alspaugh
- 268. Deborah Blunt
- 269. Sergio Diaz
- 270. Saydee Ramos
- 271. George Mortensen
- 272. Diana Camacho
- 273. Michael Chan
- 274. Edna Gomez-Green
- 275. Debra Parks
- 276. Silviano Tanori
- 277. Joyce Brendel
- 278. Marlene Leatherwood
- 279. Anna Anderson
- 280. Patrick Ertz
- 281. Maria Ortiz
- 282. Alyssa Rivett

283. Bernadette Guzman
284. George Preston Parker
285. Joy Partridge
286. Randolph Albers
287. George Chant
288. John Kroeger
289. Cherry Blue
290. Marni Gramhill
291. Elaine Kaufman
292. Leah Keller
293. Tracey Kokumo Craig
294. Rosalie Lines
295. Jessica Mendez
296. Jodi Phelps
297. Cheryl Thurman
298. Sonya Torres
299. Lynette Torres
300. Amy Villarreal-Orantez
301. James Bruce
302. Miguel Guzman
303. Cedric Johnson
304. Cherie Koch
305. Karina Morales
306. Debra Roberts-Milbyer
307. Jose Robledo

5-B: *Review, discussion, and possible action regarding pending applications for 2011-2013 certification renewal for business entities.*

1. A.D. Scott, Ltd. DBA PMG Services (Mary Jo Edel)
2. Affordable Legal Document Services, Inc. (Carol Keller)
3. Legalezeusa, LLC (Dan Fore)
4. Southeast Arizona Paralegal Services (Misty Coppedge)
5. Lien Secure, LLC (Donald Lincoln)
6. Morrison Group, Inc. (Patricia Morrison)
7. National Contractor Services Corporation (Brian Finn)
8. Building Industry Credit Association (Andrea Parisi)
9. Center for Divorce Mediation & Alternative Dispute (Mary Marcus)
10. Valley Docs & Paralegal Services, LLC (Mary Carlton)
11. Dan Peterson Property Management, LLC (Dan Peterson)
12. Montes Multiple Services, LLC (Alicia Celis)
13. Edward M. Osinski, CPA, PC (Edward Osinski)
14. T.F.C. Ventures, Inc. (Lori Kort)
15. Planned Development (Lori Rutledge)
16. Arizona Paralegal Services, Inc. (Deborah Moldovan)
17. Legalzoom.com (Brian Liu)

18. Jurdoc, LLC (Stephen Lee)
19. Ashley Renee Enterprises Corporation (Dale Shephard)
20. CB Document Preparation, LLC (Brenda Smith)
21. Cornerstone Properties, INC. (Michael Roberson)
22. Preliminary Notice Company, LLC. (Brook Murray)
23. Titan Lien Services, Inc. (Jill Smith)
24. Montgomery & Associates, Inc. (Carol Aragon-Montgomery)
25. My Corporation Business Services, Inc. (Meghan Record)
26. Bart Stevens Special Needs Planning, LLC (Barton Stevens)
27. Metro Association Management (Linda Kellogg)
28. Ayuda Legal Help LLC (Ramon Garcia)
29. AZ Lien Services, Inc. (Lillian Stephens Murray)
30. EZ Legal Documents, LLC (Mandi Hemming)
31. Precision Legal Preparation, LLC (Michael Figueroa)
32. Assisted Document Solutions, P.L.L.C. (Rochelle Hoekstra)
33. Caprenos Inc. (Karen Paschall)
34. GFA Wealth Design LLC DBA Gentry Wealth Management (Erica Leblang)
35. Heywood Realty & Investment, Inc. (Larry Heywood)
36. Lagas & Associates Paralegal Services, LLC (Leanora Lagas)
37. Signature Documents, LLC (JoAnn Kramer)
38. Your Entity Solution, LLC (Wendy Byford)
39. Arizona Wills & Trusts of Tucson, LLC (Allan Bonhoff)
40. Cheryl A. Wall, P.C. (Cheryl Wall)
41. Essential Estate Plans, LLC (Allan Bonhoff)
42. Financial Strategies, Inc. (Michael Anderson)
43. Jemasi Inc. (Maria Gil)
44. R & R Property Management, LLC (Betsy Ross-Retchin)
45. Key Legal Document Solutions, PLC (Bernadette Deangelis)
46. Bishop & Associates, Inc. (David Bishop)
47. Guardian Estate Planning Service (Daniel Taylor)
48. Precision Paralegal Services LLC (Paris Chacon)
49. East Valley Estate Planning, LLC (Catherine Longman)
50. Emit, Inc. (Melissa Tenny)
51. Strategic Points Documentation Preparation, PLLC (Lisa Tonge)
52. American Contractor Licensing Services, Inc. (Bruce Evers)
53. Desert Schools Financial Services, LLC. (Jolie Fontana-Black)
54. Edward F. Daily CPA P.C. (Edward Daily)
55. Family First Estate & Corporate Services, LLC (Eric Schoeller)
56. Laguna Business Services, LLC (Edward Smith)
57. Law & Reed CPA'S PC (Michael Law)
58. National Document, LLC (Scott Boyer)
59. Steele Larson Anderson Legal, LLC (Thomas Steele)
60. Advanced Legal Services LLC (Marwan Sadeddin)
61. Harrison CPA & Consulting, PC (Elizabeth Harrison)
62. Today's Legal Choice, L.L.C. (Guadalupe Salinas)
63. 123 The Document Tree, LLC (Cynthia Bowman)

64. Out-of-Court Solutions (Oliver Ross)
65. Valleywide Legal Documents, LLC (Karen Cooley)
66. AZ Statewide Paralegal (Shannon Trezza)
67. Metro Tax, Inc. (Michael Whittle)
68. Stevens Paralegal Services, LLC (Jette Stevens)
69. Alliance Legal Services, LLC (Christopher Fortier)
70. Affordable Services, Inc. (David Hendrickson)
71. Alliance Estate Planning, Inc. (Jennifer Skidmore)
72. Cadden Community Management, INC. (Deborah Colon-Mateo)
73. Paradox Document Preparation Service, L.L.C. (Jennifer Bone)
74. Phoenix Success, Inc. (Denisa Kaporalis)
75. Richard C. Hoyt & Associates, Inc. (Richard Hoyt)
76. Strategic Tax Planning LLC (Lynn Forman)
77. Certified Legal Document Preparers, LLC (Allen Merrill)
78. Construction Notice Services, Inc. (Richard Fink)
79. Discount Divorce Professional, LLC (James Jennings)
80. Langston-Hancock Legal Documents (Frances Langston-Hancock)
81. Divorce, Custody & Child Support Services, Inc. (Richard Slatin)
82. Florence Paralegal Services, LLC (Elizabeth Beatty)
83. Continental Recovery Services (Laura Pavey)
84. Karla's Paralegal Services, Inc. (Karla Wyrstek)
85. Arizona Legal Document Services, LLC (Kellie DiCarlo)
86. Financial Security Group of Arizona, Inc. (JoAnn Regan)
87. Freshstart Women's Foundation (Edna Gomez-Green)
88. Tax & Money Strategies (Jack Sides)
89. Van Rylin Associates Inc. (Janet Summers)
90. West-Word Services Corp. (Chris West)
91. Affordable Document Preparation, LLC (Emil Estopare)
92. Capital Consultants Management Corporation (Judith Alspaugh)
93. Fishgold Financial Services Limited (Valerie Fishgold)
94. Kachina Management, Inc. (Christina Collura)
95. Rider Levett Bucknall LTD (Julian Anderson)
96. AA American Contractors License School, LLC (Constance Havens)
97. AAA Legal Services Inc. (Joseph Glennon)
98. Carefree Document Services, LLC (Amy Swain)
99. Paralegal Consultants, Inc. (Loray Bassani)
100. Rapid RPS (AZ), LLC (Barry Goldman)
101. American Living Trust Services, LLC (Dennis Lawrence)
102. Americana Services (Vellia Pena)
103. Cautela Corporation (Marley Beard)
104. Griffin Paralegal Services, LLC (Debra Griffin)
105. Joyce's Services Corporation (Edith Funk)
106. Northern Arizona Investment Group, Inc. (Jane Whitley)
107. Ogden Services Incorporated (Bonnie Ogden)
108. Southwest Legal Document Services, LLC (Ranae Settle)
109. Tri-City Property Management Services, Inc. (Elaine Anghel)

110. Accurate Lien and Contractor Assistance, Inc. (Lindsay Cline)
111. Arizona Legal Ease, Inc. (Sheila Webster)
112. Document Resource Center LLC (Donald Steward)
113. Economidis Mediation Services, L.L.C. (Gregory Economidis)
114. Esslinger Enterprises, LLC DBA Deed Resource (Michele Esslinger)
115. Legal Type Documents (Debra Parks)
116. Grand Canyon Planning Associates LLC (Tracey Dombroski)
117. Scottsdale Condominium Management, Inc. (Irene Mayer)
118. The Getzen Group Inc. (Richard Getzen)
119. Agencia Hispana (Carlos Galindo)
120. Guardian Financial Planning Services, Inc. (Patrick Ertz)
121. State DPS, LLC (Alyssa Rivett)
122. Parker Egan CPAS PLLC (George Preston Parker)
123. Arizona Legal Briefcase, LLC (Michelle Blake)
124. Katherine J. Kredit Enterprises, Inc. (Katherine Kredit)
125. Accounting World CPA & Consulting, PLC (Joy Partridge)
126. AAM, LLC (Jean Farrell)
127. The Lien Group, LLC (Eugene "Jeanne" Lien)
128. Asset Research Services, Inc. (Cheryl Thurman)
129. Cheaper Than A Lawyer, LLC (Tracey Kokumo Craig)
130. City Property Management Company (Jodi Phelps)
131. Corporation Lien Services, LLC (Michael Haley)
132. Saguaro Lien Service, LLC (Rosalie Lines)
133. AMCN Group, LLC (Marcia Nolan-Malsack)
134. Servicios Hispanos (Karina Morales)
135. A1 Legal Services, LLC (Ank-Kim Doan Pickell)
136. Divorce Packet Processing, LLC (Linda Seger)
137. Living Estate Solutions, Inc. (Eleanor Tarman)
138. Andrew M. Saper, L.L.C. (Andrew Saper)
139. Alta Estate Services, LLC (Alyssa Marino)
140. Suzette M. Brown, PC (Suzette Brown)
141. Celentano's Mobile Notary Service, Inc. (Judith Celentano)

5-C: *Review of Business Entity Exemption Extension Requests for the 2011-2013 certification period.*

1. Valley Docs & Paralegal Services, LLC (Mary Carlton)
2. Dan Peterson Property Management LLC (Daniel Peterson)
3. Affordable Legal Document Services, Inc. (Carol A Keller)
4. Lien Secure, LLC (Donald Lincoln)
5. Affordable Legal Document Services, Inc. (Carol A Keller)
6. Southeast Arizona Paralegal Services (Misty Coppedge)
7. Preliminary Notice Company, LLC (Brook Murray)
8. Montgomery & Associates, Inc. (Carol Aragon-Montgomery)
9. Bart Stevens Special Needs Planning, LLC (Barton Stevens)
10. Metro Association Management (Linda Kellogg)

11. Ez Legal Documents, LLC (Mandi Hemming)
12. Arizona Wills & Trusts of Tucson, LLC (Allan Bonhoff)
13. Cheryl A. Wall, P.C. (Cheryl Wall)
14. Essential Estate Plans, LLC (Allan Bonhoff)
15. Financial Strategies, Inc. (Michael Anderson)
16. R & R Property Management, LLC (Betsy Ross-Retchin)
17. Bishop & Associates, Inc. (David Bishop)
18. East Valley Estate Planning, LLC (Catharine Longman)
19. Edward F. Daily CPA P.C. (Edward Daily)
20. Family First Estate & Corporate Services, LLC (Eric Schoeller)
21. Laguna Business Services, LLC (Edward Smith)
22. Advanced Legal Services LLC (Marwan Sadeddin)
23. Today's Legal Choice, L.L.C. (Guadalupe Salinas)
24. 123 The Document Tree, LLC (Cynthia Bowman)
25. Out-Of-Court Solutions (Oliver Ross)
26. Valleywide Legal Documents, LLC (Karen Cooley)
27. Affordable Services, Inc. (David Hendrickson)
28. Alliance Estate Planning, Inc (Jennifer Skidmore)
29. Paradox Document Preparation Service, L.L.C. (Jennifer Bone)
30. Langston-Hancock Legal Documents (Frances Langston-Hancock)
31. Divorce, Custody & Child Support Services, Inc. (Richard Slatin)
32. Karla's Paralegal Services, Inc. (Karla Wyrstek)
33. West-Word Services Corp. (Chris West)
34. Fishgold Financial Services Limited (Valerie Fishgold)
35. Rider Levett Bucknall Ltd (Julian Anderson)
36. Carefree Document Services, LLC (Amy Swain)
37. Paralegal Consultants, Inc (Loray Bassani)
38. Rapid RPS (AZ), LLC (Barry Goldman)
39. American Living Trust Services LLC (Dennis Lawrence)
40. Cautela Corporation (Marley Beard)
41. Griffin Paralegal Services, LLC (Debra Griffin)
42. Southwest Legal Document Services, LLC (Ranae Settle)
43. Economidis Mediation Services, L.L.C. (Gregory Economidis)
44. Legal Type Documents (Debra Parks)
45. Peoria Nu Start Bankruptcy (Debra Parks)
46. Eastlack Paralegal Services, LLC (Angela Eastlack)
47. AZ Legal Document Solutions, LLC (Michael Mahoney)
48. Carla's Paralegal Services, LLC (Carla Lief)
49. Salmon & Associates Business Consulting, LLC (Phillip Salmon)
50. Nancy L. Anderson LLC (Nancy Anderson)
51. Scottsdale Condominium Management, Inc. (Irene Mayer)
52. Guardian Financial Planning Services, Inc. (Patrick Ertz)
53. Parker Egan CPAS PLLC (George Preston Parker)
54. Katherine J. Kredit Enterprises, Inc. (Katherine Kredit)
55. The Lien Group, LLC (Eugenia "Jeanne" Lien)
56. Cheaper Than a Lawyer, LLC (Tracey Kokumo Craig)
57. AMCN Group, LLC (Marcia Nolan-Malsack)

58. A1 Legal Services, LLC (Ank-Kim Doan Pickell)
59. Divorce Packet Processing LLC (Linda Seger)
60. Living Estate Solutions, Inc. (Eleanor Tarman)
61. Andrew M. Saper, L.L.C. (Andrew Saper)
62. Alta Estate Services, LLC (Alyssa Marino)
63. Suzette M. Brown, PC (Suzette Brown)
64. Celentano's Mobile Notary Service, Inc (Judith Celentano)

6) CERTIFICATION AND ELIGIBILITYDivision Staff

6-A: *Review, discussion, and possible action regarding the Voluntary Surrender request:*

1. Angela Iserhott
2. Salina Faaborg
3. Alenda Martin
4. Shawnterry Cato
5. Mark Clark
6. TLC Enterprises, LLC (Shawnterry Cato)

6-B: *Interview with and possible action regarding applicant Cynthia M. Cooks.*

6-C: *Interview with and possible action regarding applicant Leonard W. Deehan.*

6-D: *Interview with and possible action regarding applicant Lisa Perez-Leon and Perez Paralegal Group, LLC*

6-E: *Review, discussion and possible action regarding Hearing Officer Jonathan Schwartz's Recommendation Report involving the denial of the certification application submitted by Jessica Star.*

6-F: *Review, discussion, and possible actions regarding the requests for extensions or waivers of continuing education (CE) requirements for certificate holders.*

CALL TO THE PUBLIC..... Les Krambeal, Chair

ADJOURN..... Les Krambeal, Chair

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary – July 25, 2011

1) REVIEW AND APPROVAL OF MINUTES

I-A: Review, discussion, and possible action regarding approval of the regular session minutes of the meeting of April 25, 2011.

A draft of the regular session minutes for the meeting of June 27, 2011 is attached for the Board's review and consideration.



Board of Legal Document Preparers
Arizona State Courts Building
1501 West Washington Street, Phoenix, Arizona 85007
Conference Room 109

Date: June 27, 2011
Time: 10:00 a.m. – 2:00 p.m.

Draft Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

Les Krambeal
Andrew Saper
Paul Friedman
Bonnie Matheson
Deborah Colon-Mateo
Cynthia Felton (arrived 10:07)

Telephonically Present:

Debra A. Young
Stephanie Gates Wolf

Absent:

Hon. Robert H. Oberbillig
Debra Griffin

OTHER ATTENDEES

AOC Staff:

Nancy Swetnam
Kandace French
Nina Preston
Linda Grau
Kimberly Siddall
Eric Thomas
Beth Rensvold
Debbie MacDonald
Susan Hunt

Guests:

Mitchell Varbel
Alan Ariav
Maday Santos
Consuelo Salazar

CALL TO ORDER

Called to Order By: Les Krambeal, Chair

Time: 10:02 a.m.

1) REVIEW AND APPROVAL OF MEETING MINUTES

Individuals Addressing the Board: Les Krambeal, Chair

1-A: *Review, discussion, and possible action regarding approval of the Regular session minutes of the meeting of April 25, 2011.*

Discussion: None.

Motion: Moved to approve the Regular session minutes of the Board meeting of April 25, 2011

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal

Motion Results: Pass **LDP 11-099**

Individuals Addressing the Board: Les Krambeal, Chair

1-B: *Review, discussion, and possible action regarding approval of the Executive session minutes of the meeting of April 25, 2011.*

Discussion: None.

Motion: Moved to approve the Executive session minutes of the Board meeting of April 25, 2011.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal

Motion Results: Pass **LDP 11-100**

1C: *Review, discussion, and possible action regarding approval of the Regular session meeting minutes of June 9, 2011.*

Discussion: None.

Motion: Moved to approve the regular session minutes of the Board meeting of June 9, 2011.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal Bonnie Matheson

Motion Results: Pass **LDP 11-101**

2) REVIEW OF PENDING COMPLAINTS

2-A: *Review, discussion and possible action regarding complaint number 08-L001 involving Deanne Vinsant and ABC Paralegal Services.*

Individuals Addressing the Board: Nancy Swetnam

Discussion: On April 25, 2011, Probable Cause Evaluator Mike Baumstark entered a finding probable cause exists regarding Allegation 2 and does not exist as Allegation 1 of complaint number 08-L001. Therefore, it was recommended the Board accept the finding of the Probable Cause Evaluator and dismiss Allegation #1. Regarding Allegation 2, it was recommended the Board enter a finding that grounds for informal disciplinary action exist pursuant to ACJA § 7-201(H)(6)(a) and (H)(7) and issue a Letter of Concern.

Motion: Moved to approve recommendation and dismiss Allegation #1.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-102**

Motion: Moved to approve recommendation on Allegation #2 and issue a Letter of Concern and authorize the Chair to sign on behalf of the full committee.

Motion Proposals: First Paul Friedman

Second Andrew Saper

Motion Results: Pass **LDP 11-103**

2-B: *Review, discussion and possible action Judge Jonathan Schwartz' Recommendation Report regarding complaint number 09-L035 and National Future Benefits, Inc.*

Individuals Addressing the Board: Nancy Swetnam

Discussion: On December 3, 2010, a Notice of Formal Statement of Charges was filed and subsequently served to certified business entity National Future Benefits, Inc. ("NFB"). A hearing was held on April 18, 2011. In lieu of testimony, Judge Schwartz accepted the details of the proposed consent agreement resolution detailed in the Recommendation Report.

It was recommended the Board adopt the Finding of Facts and Conclusions of Law contained in Judge Schwartz' Recommendation Report and note NFB's acknowledgement and acceptance of responsibility for the alleged misconduct conduct detailed in the Investigation Summary, Allegation Analysis and probable Cause Determination Report, and Board Order in complaint number 09-L035.

It was further recommended the Board:

- Accept NFB's request to voluntarily surrender its business entity certification under discipline, pursuant to ACJA § 7-201(E)(7)(b) and (H)(24)(a)(6)(c);
- Assess cost for the investigation and related disciplinary proceedings in the amount of \$818.35, to be remitted to the Division within sixty (60) days of entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j);
- Impose a civil penalty in the amount of \$250.00 per found violation for a total of \$750.00, to be remitted to the Division within sixty (60) days of entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

NOTE: Former NFB employees also named in the action, Robin McElfresh and Victoria Cegla, were also served. The matters involving Ms. McElfresh and Ms. Cegla have previously been resolved by separate orders of the Board.

Motion: Moved to approve recommendation noted above and accept the

findings of facts in conclusion of laws as contained in Judge Schwartz Recommendation Report, and note that FNB Inc. acknowledges and accepts responsibility for the alleged misconduct that was detailed in the investigation summary. Also, to authorize the Chair to sign on behalf of the full committee.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal

Motion Results: Pass **LDP 11-104**

2-C: *Review, discussion and possible action regarding complaint number 10-L012 involving Elizabeth Moore.*

Individuals Addressing the Board: Nancy Swetnam

Discussion: On December 13, 2010, certificate holder Elizabeth Moore was served with a Notice of Formal Statement of Charges in complaint number 10-L012. Moore timely filed an Answer and requested a hearing. During the hearing preparation phase of the proceedings, Moore, through her attorney, requested Consent Agreement consideration to resolve the pending disciplinary action.

It was recommended the Board enter the Consent Agreement and authorize the Chair to sign the Consent Agreement on behalf of the full Board.

Motion: Moved to approve the above recommendation and enter the Consent Agreement and authorize the Chair to sign the Consent Agreement on behalf of the full Board.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal

Motion Results: Pass **LDP 11-105**

2-D: *Review, discussion and possible action regarding the proposed Consent Agreement resolution of complaint number 09-L05 involving Jill Smith and Titan Lien Services.*

Individuals Addressing the Board: Linda Grau

Discussion: On April 25, 2011, the Board reviewed and considered complaint number 09-L055 involving certificate holders Jill Smith ("Smith") and Titan Lien Services ("Titan"). The Board accepted the finding of the Probable Cause Evaluator, dismissed Allegation 1, and

determined grounds for formal disciplinary action exists regarding Allegations 2 and 3.

As ordered by the Board, the certificate holders were given written notice of the Board's action and were provided an opportunity to enter a Consent Agreement in advance of the filing of the Notice of Formal Statement of Charges. On May 4, 2011, a letter and documentation from Smith and Titan was delivered to the Division offering a proposed alternative Consent Agreement. The alternative Consent Agreement eliminates both the proposed Censure to Titan and the proposed Letter of Concern to Smith, eliminates the proposed additional 3-hour continuing education mandate for Smith, eliminates the proposed civil penalty, and asserts Smith and Titan were authorized and held authority to established by way of contractual "Service Agreements" to act as "limited agent" of Titan's customers when signing lien documents. In the alternative Consent Agreement, Smith and Titan are offering to pay the proposed costs assessment in the amount of \$204.66.

It was recommended the Board reject the proposed alternative Consent Agreement, order the filing of the Notice of Formal Statement of Charges in complaint number 09-L055, and authorize the Chair to sign the Notice of Formal Statement of Charges on behalf of the full Board.

NOTE: The proposed costs of \$204.66 include the investigative costs and will increase once expenses for formal proceedings are incurred.

Motion: Moved to approve the above recommendation and reject the proposed alternative Consent Agreement, order the filing of the Notice of Formal Statement of Charges in complaint number 09-L055, and authorize the Chair to sign the Notice of Formal Statement of Charges on behalf of the full Board.

<i>Motion Proposals:</i>	First	Paul Friedman
	Second	Andrew Saper
	Recusal	Nancy Swetnam

<i>Motion Results:</i>	Pass	LDP 11-106
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3) ADMINISTRATIVE ISSUES

3-A: Farewell to exiting board members.

Individuals Addressing the Board: Kandace French

Discussion: The term of appointment of the following Board of Legal Document Preparer members expires on June 30, 2011:

Judge Robert H. Oberbillig
Cynthia S. Felton
Stephanie Gates Wolf

The staff of the Certification and Licensing Division extended their appreciation to these members for their dedication during their term(s) of appointment.

Motion: None

4) INITIAL CERTIFICATION APPLICATIONS

4-A: *Review, discussion and possible action regarding the following pending applicants for 2011-2013 certification.*

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following applications remain incomplete pending receipt of additional information. It was recommended these applicants be deferred to the July meeting.

1. Alison N. Torba
4. Veronica Rolley
6. Krystina J. Ehrlich
8. Jimmie E. Cannon
16. Perez Paralegal Group, LLC (Lisa Perez-Leon)
18. Docuprep Solutions, LLC (Cassandra J. Wagner)
20. Wellth Life, LLC (Carissa Olson)

Motion: Moved to defer the above applicants to the July meeting.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-107**

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended the following applicants receive standard certification; all information has been received.

2. Elise G. Gutierre
3. Alejandra McEwen
7. Ana C. Dabbs
9. Jennifer M. Stupski
10. Linda M. Whittle
11. Carl R. Cunningham
15. Lien Solutions, Inc (Marlene S. Morton)
17. PSK Docs, LLC (Penny S. King)
19. Siegel Document Preparation, LLC (Rondi A. Siegel)

Motion: Moved to accept recommendation and grant certification to the above applicants effective July 2, 2011.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-108**

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following applicant was formerly certified in June 24, 2003. Starting June 15th, 2006 when the Board accepted her voluntary surrender request, she disclosed on her application she received two misdemeanors for disorderly conduct; one in October 2001 and the other in November 2001. A guilty plea was entered on both cases and she was placed on deferred judgment. Both cases were dismissed and closed in March of 2002. Applicant also disclosed being a victim of domestic violence on December, 2005 and while on probation she received a misdemeanor of aggravated assault in October 2007. Therefore violating her probation in Colorado for the December 2005 misdemeanor. On April 29, 2008 Maricopa Adult Probation Interstate Combat Unit accepted her case from Colorado. All the terms of probation were completed and the case was closed in March 2010. For the October 2007 misdemeanor, applicant completed all the terms and probation and order vacating the judgment and dismissing the charges was entered in March 2011. The applicant provided a personal statement and letters of recommendation. It was recommended the Board defer consideration so staff can provide the applicants complete application for Board review. It was also requested the applicant appear at the July Board meeting.

5. Lisa Perez-Leon

Motion: Moved to accept the above recommendation and request the applicant attend the July meeting for an interview.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-109**

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following applicant disclosed being a victim of a misdemeanor in August 2000 for failure to protect her children. She completed the probation and paid the fine. It was recommended the Board grant standard certification effective July 1, 2011.

12. Laurel L. Buldoc

Motion: Moved to accept recommendation and grant certification to the above applicant effective July 1, 2011.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-110**

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following applicant disclosed being terminated from Phillips and Associates law firm as a result of a reduction in force. Applicant also disclosed a civil action regarding wrongful death regarding her father. It was recommended the Board grant standard certification effective July 1, 2011.

13. Rondi A. Siegel

Motion: Moved to accept recommendation and grant certification to the above applicant effective July 1, 2011.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-111**

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following applicant disclosed being convicted of a felony charge in July of 1979 for a lewd and lascivious act with a girl less than 15 years of age. The applicant failed to disclose 7 civil actions. It was recommended the Board invite Mr. Deehan to the July Board meeting for an informational interview regarding the non-disclosure conviction and any information the Board may request.

14. Leonard W. Deehan

Motion: Moved to accept recommendation to invite Mr. Deehan to the July Board meeting for an informational interview regarding the non-disclosure conviction and any information the Board may request.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-112**

Individuals Addressing the Board: Kimberly Siddall

Discussion: Request to amend Motion on the granting of certification for approved applicants that the effective date is July 1, 2011.

Motion: Moved to accept the above recommendation to include the effective date to July 1, 2011.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-113**

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following applications were received and processed for Board review:

21. Sin Abogados, Inc. (Tannya R. Gaxiola)

Applicant disclosed one of the members of the business being involved in several civil actions. It was recommended the Board grant standard certification to the business effective July 1, 2011.

Motion: Moved to grant standard certification to the above business applicant.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP 11-114**

Individuals Addressing the Board: Kimberly Siddall

Discussion: 22. Shari L. Nestor

Applicant failed to disclose a civil action on her application. Applicant states she was not aware of the existence of the action. It was recommended the Board grant standard certification to the applicant effective July 1, 2011, and direct staff to include language regarding non-disclosure on future applications may result in denial or disciplinary action.

Motion: Moved to approve recommendation and grant standard certification to the above applicant.

Motion Proposals: First Andrew Saper
Second Paul Saper
Recusal Bonnie Matheson

Motion Results: Pass **LDP 11-115**

Individuals Addressing the Board: Kimberly Siddall

Discussion: 23. Cynthia M. Cooks

Applicant disclosed having several misdemeanors ranging from 1991 to 2006. Also, application stated she is currently in numerous civil actions based on her position as a general liability claims examiner in multiple jurisdictions handling litigated files for her employer. However, she failed to disclose 6 civil actions involving her personally. It was recommended the Board grant standard certification to the applicant effective July 1, 2011, and direct staff to include language regarding non-disclosure on future applications may result in denial or disciplinary action.

Motion: Moved to request applicant attend the July Board meeting to discuss the above matter.

Motion Proposals: First Paul Friedman

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal

Motion Results: Pass **LDP 11-118**

EXECUTIVE SESSION: Start Time: 10:25 End Time: 10:34 a.m.

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended to defer the above matter to the July meeting.

Motion: Moved to approve recommendation and defer the above matter to the July meeting.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal

Motion Results: Pass **LDP 11-119**

4-B: Review of Business Entity Exemption Request for the 2011-2013 initial certification period:

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended the following Business Entity Exemption be granted:

1. Arizona Legal Ease, Inc. (Sheila R. Webster)

Motion: Moved to grant Business Entity Exemption to Arizona Legal Ease, Inc. (Sheila R. Webster).

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP – 11-120**

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended the following Business Entity Exemptions be

granted:

2. Lien Solutions, Inc (Marlene S. Morton)
4. PSK Docs, LLC (Penny S. King)
6. Siegel Document Preparation, LLC (Rondi A. Siegel)

Motion: Moved to approve recommendation and grant the above Business Exemptions.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP – 11-121**

Individuals Addressing the Board: Kimberly Siddall

Discussion: It was recommended the following Business Entity Exemptions be deferred until the July 2011 meeting:

3. Perez Paralegal Group, LLC (Lisa Perez-Leon)
5. Docuprep Solutions, LLC (Cassandra J. Wagner)

Motion: Moved to approve recommendation and defer the above Business Exemptions until the July 2011 meeting.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP – 11-122**

5) LICENSE AND ELIGIBILITY APPLICATION

5-A: Review, discussion, and possible action regarding the following pending applications for renewal of certification:

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following certificate holder has requested to withdrawal her renewal application and it was recommended the Board accept her request to withdrawal.

8. Jodi Brown

Motion: Moved to approve the above recommendation and accept

withdrawal of certificate holder Jodi Brown.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass LDP – 11-123

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following certificate holders have submitted applications for renewal of standard certification. The applications are complete, no information has been presented during a background review which is contrary to standard certification being granted and the certificate holders have demonstrated they meet the minimum eligibility requirements for standard certification. It was recommended renewal of standard certification be granted to the following individuals:

1. Julian Anderson
2. Kusum Behari
3. Daniel Benhaim
4. Brandee Berry
5. William Bowman
6. Scott Boyer
7. Suzette Brown
9. Teri Campbell
10. Debra Cassidy
11. Judith Celentano
12. Alicia Celis (Montes)
13. Paris Chacon
14. Glenda Collings
15. Misty Coppedge
16. Gina Cote
17. Joe Covarrubias
18. Diana Crouch
19. Bernadette Deangelis
20. Mary Dunn
21. Mary Jo Edel
22. Carolee Elliott
23. Bruce Evers
24. Susan Faris
25. Michael Figueroa

Motion: Moved to approve the above recommendation and grant the above individuals standard certification.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP – 11-124**

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following certificate holders have submitted applications for renewal of standard certification. The applications are complete, no information has been presented during a background review which is contrary to standard certification being granted and the certificate holders have demonstrated they meet the minimum eligibility requirements for standard certification. It was recommended renewal of standard certification be granted to the following individuals:

26. Brian Finn
27. Michael Fisher
28. Patrick Flanery
29. Jolie Fontana-Black
30. Lynn Forman
31. Christine Gant
32. Charlotte Hargreaves
33. Joel Heller
34. Mandi Hemming
35. Michael Jaimes
36. Nancy James
37. Kathryn Kaiser
38. Carol Keller
39. Linda Kellogg
40. John Kincaid
41. Lori Kort
42. Bernard Kruer
43. Elaine Lacasella
44. Erica Leblang
45. Elizabeth Lloyd
46. Janet Logan
47. Catharine Longman
48. John Mansell
49. Walter Marcus
50. Mary Marcus

Motion: Moved to approve the recommendation and grant the above individuals standard certification.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP – 11-125**

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following certificate holders have submitted applications for renewal of standard certification. The applications are complete, no information has been presented during a background review which is contrary to standard certification being granted and the certificate holders have demonstrated they meet the minimum eligibility requirements for standard certification. It was recommended renewal of standard certification be granted to the following individuals:

51. Alyssa Marino
52. Deborah Michalowski
53. Emma Moreno
54. Patricia Morrison
55. Dottie Ohe
56. Carissa Olson
57. Matthew Osborn
58. Edward Osinski
59. Karen Paschall
60. Claudia Plotnick
61. Meghan Record
62. Amy Richardson
63. Richard Rochford
64. Victoria Roff
65. Oliver Ross
66. Lori Rutledge
67. Andrew Sarager
68. Eric Schoeller
69. David Sears
70. Linda Seger
71. Michael Shadel
72. Linda Shadel
73. Dale Shephard
74. Jenny Sieles
75. Dubravka Sinno
76. Dorothy Sollars
77. Eleanor Tarman
78. Teresa Valles

Motion: Moved to grant renewal of standard certification to the above individuals.

Motion Proposals: First Andrew Saper
Second Paul Friedman

Motion Results: Pass **LDP – 11-126**
Page 17 of 23

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following certificate holders have demonstrated they completed the continuing education (CE) requirement. However, all or some of the continuing education hours were completed after the required timeframe. No information has been presented during the background review which is contrary to renewal of standard certification being granted and they have demonstrated they meet the minimum eligibility requirements for standard certification. It was recommended the following certificate holders be granted renewal and, pursuant to ACJA §7-208(L)(9)(e), be assessed a delinquent CE fee of \$50.00 to be remitted no later than July 18, 2011.

- 79. Wendy Byford
- 80. Patricia Lewis
- 81. Daniel Peterson
- 83. Jette Stevens
- 84. Lidia Tagliarini

Motion: Moved to accept the above recommendation and grand renewal and pursuant to ACJA §7-208(L)(9)(e), be assessed a delinquent CE fee of \$50.00 to be remitted no later than July 18, 2011.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal

Motion Results: Pass LDP 11-127

Individuals Addressing the Board: Kimberly Siddall

Discussion: The following certificate holder has submitted application for renewal of standard certification. The application is complete, no information has been presented during a background review which is contrary to standard certification being granted and the certificate holder has demonstrated he meets the minimum eligibility requirements for standard certification. It was recommended renewal of standard certification be granted to the following individual:

- 82. Andrew Saper

Motion: Moved to accept the above recommendation and renewal of standard certification be granted to Andrew Saper.

Motion Proposals: First Paul Friedman
Second Cynthia Felton
Recusal Andrew Saper

Motion Results: Pass LDP 11-128

6) REVIEW OF RENEWAL APPLICATIONS

6-A: *Interview with and possible action regarding applicant Alan N. Ariav.*

Individuals Addressing the Board: Kimberly Siddall

Discussion: During the April meeting, the Board requested staff invite Alan N. Ariav to attend the June 27th meeting to provide additional information regarding his application.

Applicant was an Arizona licensed attorney. Applicant disclosed being suspended from the State Bar for 18 months; however, the Discipline Commission Order states 6 months and 1 day suspension. The suspension was due to the applicant representing a client in an employment matter and during a private mediation session; applicant made misrepresentations to the mediator and to the Attorney General's office. Applicant further misled the State about the amount of attorney fees incurred. Applicant states in his application he suffers from severe depression, anxiety, and bipolar disorder. His suspension arose out of the fact that he stopped seeing his psychiatrist and stopped taking his medication during that period. Applicant also failed to disclose 6 civil actions and a complaint filed with the State Bar UPL department.

Staff recommended the Board address the non-disclosure of the civil actions, the State Bar complaint, and the State Bar suspension and determine if the information presented is contrary to certification being granted.

Motion: Moved to go into Executive session.

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal Paul Friedman

Motion Results: Pass LDP 11-129

EXECUTIVE SESSION #2 Start time: 10:40 a.m. End Time: 11:20

Motion: Moved to grant Mr. Alan N. Ariav initial certification and that he sign an affidavit regarding the use of JD designation versus CLDP on all documentation.

Nay

Cynthia Felton
Deborah Colon-Mateo
Les Krambeal
Paul Saper

Yay

Debra Young
Stephanie Gates Wolf
Bonnie Matheson

Motion Proposals: First Paul Friedman
Second Andrew Saper
Recusal Paul Friedman

Motion Results: Pass **LDP 11-130**

6-B: *Review, discussion and possible action regarding Hearing Officer William O'Neil's Recommendation Report involving the denial of the certification application submitted by Amber R. Jackson.*

Individuals Addressing the Board: Kimberly Siddall

Discussion: The Hearing Officer's Recommendation report regarding the denial of Ms. Jackson's certification application was provided to the Board for review. Hearing Officer O'Neil recommended the Board uphold the earlier denial.

Motion: Moved to approve recommendation and deny certification to applicant Amber R. Jackson.

Motion Proposals: First Paul Friedman
Second Cynthia Felton

Motion Results: Pass **LDP 11-131**

6-C: *Review, discussion and possible action regarding Hearing Officer Jonathan Schwartz's Recommendation Report involving the denial of the certification application submitted by Rhonda L. Carder.*

Individuals Addressing the Board: Kimberly Siddall

Discussion: The Hearing Officer's Recommendation report regarding the denial of Ms. Carder's certification application was provided to the Board for review. Hearing Officer Schwartz recommended the Board approve Ms. Carder's application for certification.

Motion: Moved to approve recommendation and grant certification to applicant Rhonda L. Carder, effective date of July 1, 2011.

Motion Proposals: First Paul Friedman
Second Stephanie Gates-Wolf

Motion Results: Pass **LDP 11-132**

6-D: *Review, discussion, and possible actions regarding the requests for extensions or waivers of continuing education (CE) requirements for certificate holders.*

Individuals Addressing the Board: Kimberly Siddall

Discussion: 1. Ranae Settle

Requesting a waiver or extension of 9 CE credits due to being diagnosed with cancer in 2010, completed 10 CE during the 2009-2010 timeframe and 1 CE during the 2010-2011 timeframe but was unable to complete the remaining 9 CE because of treatment conflicts.

6. Evan Nielsen

Requesting a 30 day extension for 2.25 credits of the CE requirement because he was unaware that 20 hours were required. Applicant has already completed 17.75 credits and provided verification.

7. Carla Gould

Requesting a 90 day extension for 10 CE credits because she was unaware that CE credits could not all be completed through self-study. Applicant has completed and provided verification for 20 CE self study credits though only 10 credits are eligible.

No action was needed; CE requirements were received so no extension is needed. These matters will be brought forward at the July Board meeting.

Discussion: 2. Ruby Pino

Requesting a 60-90 day extension due to being certified on 9/27/2010 and lacking time to complete credits by the deadline.

3. Cheryl Wall

Requesting a waiver of all CE credits due to financial hardship from a burglary, medical bills for her husband, and loss of jobs. Applicant provided the police report documenting the burglary, the documentation of bankruptcy claim, and a medical bill report.

4. Karen Kosies

Requesting a 30 day extension for 1 credit of ethics as required, has already registered and paid for ethics course. She has completed the 20 CE hours required and provided verification but did not satisfy the ethics portion for the 2010-2011 timeframe.

5. Lisa Widman

Requesting a waiver or extension of 8.5 CE credits due to medical issues and unemployment. Applicant has completed and provided verification for 11.5 CE hours.

Staff recommended the Board determine whether the above requests should be considered a special circumstance pursuant to ACJA § 7-208((L)(9)(c)(2)(d) that would warrant an extension or waiver of CD credits and direct staff accordingly.

2. Ruby Pino

Motion: Moved to grant the above applicant a 90 day extension.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-133**

3. Cheryl Wall

Motion: Moved to not allow a waiver but to grant the above applicant a 90 day extension to complete her hours.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-134**

4. Karen Kosies

Motion: Moved to grant a 30 day extension to the above applicant.

Motion Proposals: First Paul Friedman

Second Andrew Saper

Motion Results: Pass **LDP 11-135**

5. Lisa Widman

Motion: Moved to grant a 90 day extension to the above applicant

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-136**

CALL TO THE PUBLIC - None

ADJOURNMENT

Motion: Moved to adjourn the meeting.

Motion Proposals: First Paul Friedman
Second Andrew Saper

Motion Results: Pass **LDP 11-137**

Time: 11:35 a.m.

SRH
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BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary – Monday, July 25, 2011

1) REVIEW AND APPROVAL OF MINUTES

1-B: Review, discussion, and possible action regarding approval of the executive session minutes of the meeting of June 27, 2011

A draft of the executive session minutes of the meeting of June 27, 2011 is attached for the Board's review and consideration.

Pursuant to Arizona Code of Judicial Administration § 1-202, executive session minutes are confidential and not available for public inspection.

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

2) REVIEW OF PENDING COMPLAINTS

2-A: Review, discussion, and possible action regarding non-certificate holder complaint number 11-L027 involving revoked former certificate holder Lori Toon.

Attached is the Board's October 3, 2005 Final Order and Cease and Desist Order in complaint number 04-L016 involving Lori Toon. The Final Order revoked Toon's individual legal document preparer certificate and the Board simultaneously entered a Cease and Desist Order enjoining Toon from engaging in any activity that constitutes the unauthorized practice of law, including "any and all activities involving legal document preparation services."

On April 14, 2011, the Division received a written complaint and supporting documentation that appears to reflect Toon is offering and providing legal document preparation services in Arizona. Both the complainant and the consumer who received the services confirmed Toon was responsible for the preparation of the legal documents.

It is recommended the Board move for filing of a Superior Court Petition for Cease and Desist Order against Toon pursuant to ACJA § 7-201(E)(6) and ACJA § 7-208(E)(1) specifically noting the Board previously issued a disciplinary Cease and Desist Order. It is further recommended that if the Board determines to pursue a Superior Court action, that the Petition include a request the Superior Court order any applicable consumer reimbursements and assess costs.

OCT 3 2005

ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS

**SUPREME COURT OF ARIZONA
BOARD OF LEGAL DOCUMENT PREPARERS**

IN THE MATTER OF CERTIFIED
LEGAL DOCUMENT PREPARER:

No. LDP04-L016

LORY TOON
Certificate No. 80436

**FINAL ORDER
RE: DISPOSITION
OF COMPLAINT**

CEASE and DESIST ORDER

Pursuant to the Arizona Code of Judicial Administration ("ACJA") § 7-208: Legal Document Preparer, as adopted by Supreme Court Administrative Order No. 2003-14, the Board of Legal Document Preparers ("Board") serves this Final Order re: Disposition of Complaint and Cease and Desist Order in LDP04-L016 regarding Lory Toon ("Toon"), certificate number 80436.

The particular sections and administrative orders relevant to this matter are Supreme Court Administrative Order No. 2003-14, Arizona Supreme Court Rule 31 ("Rule 31"), and ACJA § 7-208, including the Code of Conduct, adopted as Appendix A of ACJA § 7-208. The particular subsections of ACJA § 7-208 involved in the misconduct are (F)(2), (H)(1)(a)(1), (H)(1)(a)(2), (H)(1)(a)(4), Code of Conduct Standard (1)(a), Standard (1)(b), Standard (1)(d), Standard (2)(c), and Standard (5)(a).

FINDINGS

Pursuant to ACJA § 7-208 (H)(12), the Board adopts the findings of fact and conclusions of law contained in Hearing Officer Andrew Marshall's Findings of Fact,

1 Conclusions of Law and Recommendation dated May 10, 2005 [Exhibit A].and finds Toon
2 violated ACJA § 7-208 (F)(2), (H)(1)(a)(1), (H)(1)(a)(2), (H)(1)(a)(4) and ACJA § 7-208
3 Appendix A, Code of Conduct Standard (1)(a), Standard (1)(b), Standard (1)(d), Standard
4 (2)(c), and Standard (5)(a). The Board modifies the Hearing Officer's recommendation
5 regarding the imposition of a fine, pursuant to ACJA § 7-208 (H)(15)(a)(8).

6
7 **FINAL DECISION AND ORDER OF THE BOARD**

8 The Board having adopted the above referenced findings of violations and the attached
9 Findings of Fact and Conclusions of Law, finds the following relief is appropriate, in the
10 public interest and necessary for the protection of the public.

11 **IT IS ORDERED** Toon's AZCLDP certificate number 80436 is revoked, pursuant to
12 ACJA § 7-208 (H)(15)(a)(6).

13 **IT IS FURTHER ORDERED**, Toon shall pay a fine in the amount of \$1,000.00,
14 pursuant to ACJA § 7-208 (H)(15)(a)(8) and (H)(16)(b).

15 **IT IS FURTHER ORDERED**, pursuant to ACJA § 7-208 (H)(15)(a)(8) Toon shall
16 pay to the Legal Document Preparer Program the following costs associated with this
17 disciplinary proceeding:


- 18 a. \$1,689.29 for staff costs incurred;
19 b. \$367.20 for service of process of the Formal Notice of Charges and Right to
20 Hearing and Witness Subpoena;
21 c. \$8.30 for certified mail expenses;
22 d. \$3,948.00 for court reporter and transcript expenses;

23 Total: \$6,012.79.

24 Toon shall make full payment of all fines and costs by December 31, 2005, payable to the
25 "Arizona Supreme Court" and submit payment to the Legal Document Preparer Program,
Arizona Supreme Court, 1501 West Washington, Suite 104, Phoenix, Arizona 85007.

1 **IT IS FURTHER ORDERED**, pursuant to ACJA § 7-208 (H)(15)(a)(5), Toon shall
2 immediately cease and desist from engaging in the unauthorized practice of law, including
3 any and all activities involving legal document preparer services.

4 Dated this 3rd day of October, 2005.

5
6 

7
8 The Honorable Roland Steinle, III, Chair
Board of Legal Document Preparers

9 Original filed with the Administrative Office of the Courts this 3rd day of October, 2005.

10
11 Copy of the foregoing mailed by certified, return receipt U.S. Mail on this 3rd day of October,
2005 to:

12 Lory Toon
10424 East Juanita Avenue
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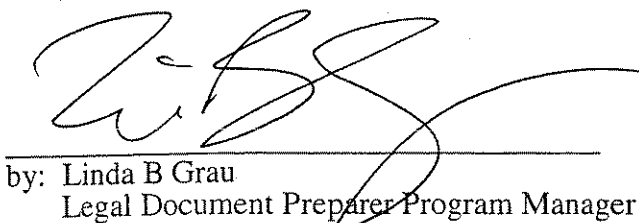
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24 by: Linda B. Grau
Legal Document Preparer Program Manager

EXHIBIT A

FILED
MAY 10 2005
ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS

Hearing Officer Andrew F. Marshall
State Bar No. 009762
Arizona Supreme Court
Certification and Licensing Division
1501 West Washington, Suite 104
Phoenix, Arizona 85007

BEFORE THE ARIZONA SUPREME COURT
BOARD OF LEGAL DOCUMENT PREPARERS

IN THE MATTERS OF:

NO. LDP-NFC-04-L016

CERTIFIED LEGAL DOCUMENT
PREPARERS:

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND RECOMMENDATIONS**

LORY TOON
Certificate No. 80436

I. PROCEDURAL STATUS

An evidentiary hearing was conducted on March 10-11, 2005, at the request of the certificate holder, Lory Toon (hereafter Toon) after the Board issued formal charges of misconduct in violation of various subsections of A.C.J.A. §7-208 paragraphs (F) and (H) together with violations of the standards set forth in the Code of Conduct for legal document preparers.

At the hearing, numerous witnesses testified and voluminous exhibits were received in evidence.

After an in-depth review of the transcript of proceedings (600 pages), the parties' exhibits, proposed Finding of Facts and Conclusions of Law and independent research, the following Findings of Fact, Conclusions of Law and Recommendations are herewith submitted pursuant to A.C.J.A. §7-208 (H)(12) for the Board's consideration.

II. FACTUAL OVERVIEW¹

In July of 2003, complainant, Annette Lopez (hereafter Lopez), was seeking a divorce from her husband, Ryan Lopez, when she learned about Toon's legal document preparation services through an advertisement in the Globe newspaper. Within the first two weeks of August, 2003, Toon prepared the divorce petition followed by the preparation and filing of Annette Lopez' bankruptcy petition. Although Toon did not receive her certification as a legal document preparer until August 18, 2003, on July 29 she avowed to abide by the Arizona Code of Judicial Administration §7-208 and the Code of Conduct applicable to legal document preparers.

Lopez expressed concern of what impact the bankruptcy might have on her future ability to purchase a home for both she and her children. Lopez was distressed both financially and emotionally. Toon said that she had investors who would buy the home within a period of weeks. Lopez believed the bankruptcy was to be withdrawn by Toon.

On August 29, 2003, the police raided the Lopez' home as a result of husband, Ryan Lopez' drug activity, causing damage to the home. Lopez was worried that it could not now be sold to the investors because she could not pay for the repairs. Toon told Lopez that she would pay for the repairs, and recoup the repair expenses from the investors once the home was sold.

On September 8, 2003, a Quit Claim Deed was prepared by Toon in which she was named as Grantee, which was at some point signed by Lopez and later by her husband. The deed bore the notary seal and signature of Toon and was filed with the Maricopa County Recorder on September 17, 2003. It was Lopez' understanding that the Quit Claim Deed was not a legal document and was not "notarized". Rather, she was going to obtain her husband's signature so

¹ The overview is only a rendition of certain facts in narrative form as an aid to understand this proceeding. It is followed by the Findings of Fact and Conclusions of Law in paragraph form separately stated, followed by the Recommendations.

1 that he would believe he could not move back into the home after the repairs were made. Toon
2 had repairs made to the home.

3 In October or November, Lopez learned that the home had been leased when she
4 discovered a tenant moving in. She contacted Toon and learned that Toon had leased the home
5 to an acquaintance named Hudspeth on a lease/purchase option. In the lease/purchase option
6 contract, Toon's representative capacity was as the owner/landlord. Hudspeth provided Toon
7 with \$2500.00 as security pending obtaining financing for the purchase. If financing could not
8 be obtained, the contract required that the \$2500.00 be treated as rent. Mortgage payments were
9 not being paid.

10 A dispute arose because the home was not sold and Lopez never authorized a lease of her
11 home and was not a party to the agreement. Lopez demanded that Hudspeth move out.

12 In December, while Hudspeth was still in possession of the home, Toon made her own
13 offer to Lopez to purchase the home. The dispute continued and escalated. Lopez was unwilling
14 to sign any further documents submitted by Toon. Toon then attempted to Quit Claim the
15 property back to Lopez with a deed that did not bear Toon's husband's signature. Toon
16 submitted to Lopez the draft of a complaint she intended to file alleging that Lopez was
17 defaming her and demanded no further contact except through attorneys. Hudspeth did not move
18 out until January of 2004. Toon did not apply the \$2500.00 to rent, rather, she returned it to
19 Hudspeth. Lopez did not receive any money for Hudspeth's three-month tenancy.

20 In January of 2004, Lopez submitted written complaints to the Secretary of State
21 regarding Toon's notarization of the Quit Claim Deed in which she was also named as Grantee.
22 Lopez also submitted a written complaint to the State Bar, which was forwarded to the Legal
23 Document Preparers Program for investigation. While under investigation by the Secretary of
24 State, Toon resigned her notary commission.

1 In April and May of 2004, the Board of Legal Document Preparers ("Board") began its
2 investigation of Lopez' complaint against Toon. Toon filed several civil complaints against
3 Lopez in East Mesa Justice Court and Maricopa County Superior Court for defamation, abuse of
4 process, emotional distress and for repair costs.

5 During the Board's investigation, a determination was made that information obtained
6 from Toon, varied in content. At times, it was contradictory with information from the Board's
7 own investigation as well as the Attorney General's investigation of the notary Complaint. Toon
8 offered to resign her certificate, which the Board refused.

9 In July of 2004, Lopez filed a civil complaint in Gila County Superior Court seeking
10 Toon's notary bond due to title problems. The Complaint also sought monetary damages against
11 Toon.

12 As a result of the Board's investigation, the matter was submitted to a probable cause
13 panelist. A recommendation was submitted to the Board for the filing of formal charges. Formal
14 charges were filed December 16, 2004. Toon timely requested an evidentiary hearing, which
15 culminated in the current proceedings.

16 III. FINDINGS OF FACT

17 A. Certification and Standards

- 18 1. A legal document is defined as any document intended to affect or secure
19 legal rights for a specific person or entity. (Rule 31 (a)(2)(A)(1), Rules of
20 the Supreme Court; TR p. 302, ln. 6-9)
- 21 2. ACJA §7-208 is intended to protect the public through the certification of
22 legal document preparers to ensure conformance to the highest ethical
23 standards and performance of responsibilities in a professional and
24 competent manner. (ACJA §7-208(C); TR p. 301, ln. 6-15)
- 25 3. The purpose of the Code of Conduct is to establish minimum standards of

1 performance by certified legal document preparers. (ACJA §7-208, App.
2 A)

3 4. On July 30, 2003, the Board received Toon's application for initial
4 individual certification. The Board granted Toon initial individual
5 certification effective August 18, 2003. (Ex. B-1, B-2)

6 5. In August, 2003, Toon was responsible for having a working knowledge of
7 the Code and had avowed to abide by the standards and requirements of
8 ACJA §7-208, statutes and rules governing legal document preparers. (Ex.
9 B-2)

10 6. Toon acknowledged that she had a working knowledge of ACJA §7-208
11 and the Code of Conduct. (TR p.169, ln. 17-25; p. 170, ln. 1-11)

12 **B. Relevant Events**

13 7. In July, 2003, Lopez was seeking a divorce from her husband, Ryan
14 Lopez, and learned about Toon's legal document preparation services
15 through an advertisement her mother saw in a Globe newspaper. (TR p.
16 21-23)

17 8. Toon operated her legal document preparation business out of an office in
18 Globe and an office in her Mesa home. (TR p. 295, ln. 10-23; p. 296, ln.
19 1-4)

20 9. The first time Lopez ever met Toon was in July 2003 at Toon's Mesa
21 home office when Lopez employed Toon to prepare her divorce petition.
22 (TR p.22, ln. 8-25; p. 23, ln. 1-3; TR. p. 175, ln. 5-16)

23 10. Lopez understood that Toon had stopped practicing corporate law and was
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1 now a legal document preparer and that Toon would be more
2 knowledgeable about Lopez' needs. (TR p.25, ln. 25 - p. 26, ln. 1-10; p.
3 155, ln. 6 - p. 157, ln. 23)

4 11. Toon believed that she complied with the Code of Conduct writing
5 requirement that customers be advised that she was not an attorney and
6 could not give legal advice because she had a little laminated plaque on
7 her desk that said that. (TR. p. 177, ln. 22-25; p. 178, ln. 1-11)

8 12. During the first meeting between Lopez and Toon, Lopez made Toon
9 aware that she was upset about the impending divorce, upset that she had
10 to leave her home located at 1306 West Boxelder Court ("Lopez
11 home/property") due to the fear of she and her children being harmed as a
12 result of her husband's drug activity, that she was afraid of losing her
13 home, and that she was financially destitute. (Ex. B-5; TR p. 23-25; p. 27-
14 28)

15 13. Lopez employed Toon as a professional legal document preparer. (TR p.
16 156-157)

17 14. Shortly after the divorce petition was prepared, Toon prepared the Lopez
18 bankruptcy petition, which was filed on August 8, 2003. Toon included
19 the Lopez home mortgage/loans in the bankruptcy petition. (Ex. B-42; TR
20 p. 29, ln. 2-19)

21 15. Lopez was concerned about filing the bankruptcy and the impact it would
22 have on her ability to buy a home in the future for her children. (TR p. 30)

23 16. Toon told Lopez not to worry, that she had investors who would buy her
24 home within weeks. (TR p. 30-31; p. 135)
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17. Lopez understood from Toon that the sale of her house was pretty much a "sure thing." (TR p. 39, ln. 10-15)
18. Lopez believed Toon was withdrawing the bankruptcy and therefore did not attend the trustee's meeting. Lopez' bankruptcy was dismissed for failure to attend the trustee's meeting. (TR p. 135)
19. On August 29, 2003, the police raided the Lopez home as a result of Ryan Lopez' drug activity, causing damage to the home. (TR p. 32, ln. 12-17)
20. Lopez told Toon that she could not pay for the repairs to her home. (TR p. 36, ln. 5-11; p. 196, ln. 9-11)
21. Toon told Lopez that she would pay for the repairs and that she might get some or all of the expense back from the investors. (Ex. B-34, p.2, ln. 24-27; TR p. 36, ln. 14-20; p. 39, ln. 6-9; p. 188)

a) *The September Quit Claim Deed*

22. Toon has had previous experience in the preparation of a quit claim deed. (TR p. 519, ln. 13-16)
23. The evidence demonstrates that Lopez was in a vulnerable position at the time the September Quit Claim Deed was prepared. (Ex. B-3, p.3 (3/12/04 Toon letter); TR p. 196-197; p. 239, ln. 11-20; p.384, ln. 19-25; p. 385, ln. 1-3 p. 476, ln. 17-21)
24. Toon listed herself as the Grantee to the Lopez property on the September Quit Claim Deed. (Ex. B-8; TR p. 198-199)
25. Toon knew or should have known that the September Quit Claim Deed she prepared was a legal document as it affected legal rights. (TR. p. 201, ln. 6-8)

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26. Lopez understood the purpose of the September Quit Claim Deed was only to be used as a scare tactic against Ryan not to move back into the house. Toon used the Quit Claim Deed as security for repairs she financed to the Lopez house. (TR p. 40, ln. 2-12, p. 41; p. 195, ln. 21-25, p. 196-197)
27. Toon knew or should have known that the September Quit Claim Deed would hold her out to the public to be the owner of the Lopez home. (TR p. 199, ln. 14-19)
28. The requirements and standards set forth under ACJA §7-208 and the Code of Conduct applied to Toon as a certified legal document preparer regarding the preparation of the September Quit Claim Deed. (ACJA §7-208, Code of Conduct; TR p. 337, ln. 23-25, p. 338, 339, ln. 1-6, p. 455-456)
29. Code of Conduct Standard (1)(b) requires that a legal document preparer be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest. (ACJA §7-208, App. A)
30. Toon was a notary public at the time she prepared the September 2003 Quit Claim Deed in which she was named as Grantee to the Lopez property. (Ex. B-8; TR p. 239, ln. 21-23)
31. Under A.R.S. §41-328(B), a notary is required to be an impartial witness to any document he/she notarizes. (Judicial notice)
32. Toon notarized the September Quit Claim Deed in which she was named as the Grantee to the Lopez property. (Ex. B-8; B-9; Ex. B-6 (3/12/04 letter to the Attorney General's Office); TR p. 376, ln. 13-16; p. 384, ln. 8-11; p. 386, ln. 4-9; p. 239, ln. 11-23)

- 1 33. Once recorded, the Maricopa County Recorder's office was instructed to
2 mail the September Quit Claim Deed to Toon. (Ex. 8)
- 3 34. Toon provided conflicting evidence as to where Toon notarized the
4 September Quit Claim Deed. Toon represented to the Attorney General's
5 Office that she notarized it in her Globe office. At the hearing, Toon
6 testified she prepared and notarized it while Angela Eylicio and Carrie
7 Allen were present. Angela Eylicio and Carrie Allen testified that they
8 were present when Toon notarized the September Quit Claim Deed at her
9 Mesa home. Toon witness Angela Eylicio testified that she saw Annette
10 Lopez sign the September Quit Claim Deed at Toon's Mesa home in the
11 downstairs dining room. Contrary to Ms. Eylicio's testimony, Toon
12 witness Carrie Allen testified that she saw Annette Lopez sign the
13 September Quit Claim Deed at Toon's Mesa home in an upstairs
14 bedroom/office. (Ex. B-6 (3/12/04 letter to the Attorney General's
15 Office); TR p. 485; TR p. 376, ln. 13-16; p. 384, ln. 8-11; p. 386, ln. 4-9;
16 TR p. 370, ln. 8-25; p. 371, ln. 1-2; TR p. 386, ln. 4-16)
- 17 35. Lopez told Toon that she was unable to make the mortgage payments on
18 her home. (TR p. 48, ln. 7-9)
- 19 b) *The Lease/Purchase Contract*
- 20 36. Toon held herself out to Lopez as competent to handle the sale of the
21 Lopez home. (TR p. 203, ln. 24-25; p. 204, ln. 1-5; p. 516, ln. 11-15)
- 22 37. Toon talked to Bella Hudspeth, a friend of Toon's, about leasing the
23 Lopez home, which Hudspeth agreed to do. (TR p. 489, ln. 2-12)
- 24 38. Toon entered into a lease/purchase option with Hudspeth on November 1,
25 2003. Lopez found out her home was being leased only when she

1 discovered the tenant moving into her home. (Ex. B-11; TR p. 49, ln. 13-
2 20)

3 39. Toon understood that Hudspeth was going through a divorce and that her
4 financial situation was such that she had filed for bankruptcy. (TR p. 212-
5 213; p. 214, ln. 11-23)

6 40. While considering Hudspeth a "good soul," Toon did not check
7 Hudspeth's financial background to determine if she had a reasonable
8 likelihood of qualifying to buy the Lopez property. (TR p. 214, ln. 11-15)

9 41. Toon accepted a \$2500.00 security payment from Hudspeth. (TR p. 210,
10 ln. 20-24)

11 42. Toon did not give any portion of that payment to Lopez, apply any portion
to the Lopez home mortgage, or in any other manner use it to benefit
13 Lopez. (TR p. 215, ln. 17-25)

14 43. Toon did not receive permission from Lopez to lease her home, and Lopez
15 demanded that Hudspeth move out. (TR p. 80, ln. 19-25; p. 81, ln. 1-2,
16 19-22)

17 44. Under the terms of the lease between Toon and Hudspeth, Toon
18 understood that Lopez was unable to move back into her own home for the
19 term of the lease. (TR p. 213-215)

20 45. In December, Toon offered to buy the home, which Lopez refused. (TR p.
21 492, ln. 1-9; Ex. B-13)

22 46. Toon threatened Lopez by stating that she would file lawsuits against
23 Lopez. (Ex. B-12)

24 47. In January, 2004, Toon threatened to deed the Lopez home to "whoever's
25 interested in the property." (Ex. B-6 (1/22/04 letter); TR p. 238-239)

C. Administrative Complaints and Investigation

48. On January 5, 2004, Lopez filed a complaint against Toon with the Secretary of State's Office arising out of Toon's notarizing the September Quit Claim Deed in which she named herself as Grantee to the Lopez' property. (Ex. B-14)
49. On January 18, 2004, Toon reported to the Secretary of State that her notary journal was lost/stolen. (Ex. B-6 (1/18/04) Toon letter to Secretary of State)
50. In February, 2004, Toon granted Lopez back her property. In so doing, Toon did not include her husband as a Grantor. (Ex. B-23)
51. In March, 2004, the Arizona Attorney General's Office launched an inquiry into the circumstances surrounding Toon's naming herself as Grantee on the September Quit Claim Deed in which Toon had a personal interest. As part of the inquiry, the AGO asked Toon to provide a copy of her notary journal. (Ex. B-6 (3/2/04 letter from AGO to Toon)); (Judicial Notice)
52. On March 24, 2004, after receiving notice of the inquiry, Toon resigned her notary commission, less than one year after receiving it. (Ex. B-32 (NFC), p. 14, paragraph 10; Ex. B-34, (Toon Answer), p. 4, paragraph 10; TR p. 294, ln. 21-24)
53. On April 14, 2004, the Board received Annette Lopez' complaint against Toon. (Ex. B-5)
54. Pursuant to ACJA §7-208(H)(2)(3)(4), Ms. Grau reviewed and investigated the complaint. The investigation included but was not limited to: telephone conversations and a meeting with Annette and Ryan Lopez,

1 telephone conversations between Grau and Toon, correspondence between
2 Grau and Toon, and a face-to-face meeting with Toon on July 26, 2004.
3 (TR p. 308, 324-326)

4 55. Once Ms. Grau concluded her investigation, she prepared a case summary,
5 which was ultimately presented to the probable cause panelist for review
6 pursuant to ACJA §7-208(H)(5)(a). (Ex. B-31; TR p. 308-310)

7 56. On December 14, 2004, the probable cause panelist, after review, made a
8 recommendation that probable cause existed warranting the filing of
9 formal charges against Toon by the Board. (Ex. B-31)

10 57. After the Legal Document Preparer Program ("Program") commenced its
11 investigation into Toon's conduct with Lopez, Toon volunteered to resign
her certification. (Ex. B-29)

13 58. The Board denied Toon's request to resign her certification. (ACJA §7-
14 208(G)(2); TR p. 339, ln. 23-25; p. 340-341)

15 59. On December 16, 2004, the Board issued a Notice of Formal Charges
16 against Toon pursuant to ACJA §7-208(H)(5)(b)(4) and (6). (Ex. B-32)

17 60. Toon did not indicate that she was unable to understand the Program's
18 inquiries due to medication or otherwise during the course of its
19 investigation. (TR p. 335-336)

20 61. Toon's representations protracted the Program's investigation of the
21 Lopez complaint to the extent that:

22 [I]t was a massive endeavor with every time [the Program] had contact
23 with Miss Toon on one level or another; the situations, the stories, the
information, and the statements would change to the point that it became
25 very involved merely trying to sort out what Ms. Toon was and was not

1 representing [to] this Program during the investigation regarding the
2 events that occurred and precipitated the Lopez complaint. (TR p. 324, ln.
3 10-17)

4 62. The Program incurred costs relating to this disciplinary matter against
5 Toon. (Ex. B-33; TR p. 342, ln. 14-25)

6 D. Civil Litigation

7 63. Toon filed several civil lawsuits against Lopez in Maricopa County
8 Superior Court and Chandler Justice Court. (Ex. B-24, B-25, B-26)

9 64. Lopez is presently having trouble selling her home due to a clouded title.
10 She has filed suit in Gila County Superior Court seeking Toon's notary
11 bond and for damages. (TR p. 69-71; Ex. P)

12 E. Stipulations

13 65. The Board voluntarily dismissed formal charge number 12 and stipulated
14 that the formal charges do not allege fraudulent conduct.

15
16 IV. CONCLUSIONS OF LAW

- 17 1. The September Quit Claim Deed is a legal document as defined under
18 Rule 31.
- 19 2. The writing requirement of standard 5(c) of the Code of Conduct was not
20 satisfied.
- 21 3. ACJA §7-208 and its Code of Conduct governed Toon's dealings with
22 Lopez in her preparation of the September Quit Claim Deed and
23 thereafter.
- 24 4. Toon knew or should have known that her status as Grantee on the
25 September Quit Claim Deed was a conflict of interest and an impropriety.

- 1 5. Toon knew or should have known that taking control of the Lopez'
2 property, illegally encumbering it and accepting a security deposit without
3 the Lopez' consent was a conflict of interest and an impropriety.
- 4 6. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(a)
5 by failing to act in a manner that promotes public confidence in the
6 integrity and impartiality of the legal and judicial system when she
7 prepared or participated in the preparation and then notarized the
8 September Quit Claim Deed naming herself as Grantee to the Lopez
9 property, constituting grounds for discipline under ACJA §7-
10 208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).
- 11 7. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(b)
12 by failing to avoid a conflict of interest, and therefore failing to be alert to
13 a situation which was a conflict of interest, when she prepared and
14 notarized the September Quit Claim Deed naming herself as Grantee to
15 the Lopez property, which was recorded, constituting grounds for
16 discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).
- 17 8. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(d)
18 when she engaged in unprofessional conduct detrimental to the public as a
19 result of the notarized and recorded September Quit Claim Deed,
20 constituting grounds for discipline under ACJA §7-208(H)(1)(a)(1),
21 (H)(1)(a)(2) and (H)(1)(a)(4).
- 22 9. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (2)(c)
23 by failing to observe the highest standards of integrity and truthfulness in
24 all professional dealings in connection with her actions regarding the
25 September Quit Claim Deed as Grantee to the Lopez property, constituting

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2 grounds for discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and
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10. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (5)(a) by failing to perform all duties and discharge all obligations in accordance with applicable laws and rules (i.e., ACJA §7-208, Code of Conduct and A.R.S. § 41-328(B)) in connection with her actions regarding the September Quit Claim Deed as Grantee to the Lopez property, constituting grounds for discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).
11. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(a) by failing to act in a manner that promotes public confidence in the integrity and impartiality of the legal and judicial system when she assumed control over the Lopez property, constituting grounds for discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).
12. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(b) by failing to avoid a conflict of interest, and therefore failing to be alert to a situation which was a conflict of interest when she assumed control over the Lopez home by agreement with Hudspeth, constituting grounds for discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).
13. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(d) when She engaged in unprofessional conduct detrimental to the public (i.e. Lopez) when she assumed control over the Lopez property, optioned the Lopez home to Hudspeth, and accepted a security deposit without the Lopez' consent or knowledge, constituting grounds for discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).

14. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (2)(c) by failing to observe the highest standards of integrity and truthfulness in all professional dealings when she assumed control over the Lopez property, improperly encumbered it, and accepted a security deposit without Lopez' consent or knowledge, constituting grounds for discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).
15. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (5)(a) by failing to perform all duties and discharge all obligations in accordance with applicable laws and rules (i.e., ACJA §7-208, Code of Conduct) when she assumed control over the Lopez property, improperly encumbered it, and accepted a security deposit without the Lopez' consent or knowledge, constituting grounds for discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).
16. Toon violated ACJA §7-208(F)(2) and Code of Conduct Standard (1)(a) failing to avoid impropriety, Standard 2(c) failing to observe the highest standards of integrity and truthfulness in all professional dealings, and Standard 5(a) failing to perform all duties and discharge all obligations in accordance with applicable laws and rules in her representation of events to the investigating entities; which constitute grounds for discipline under ACJA §7-208(H)(1)(a)(1), (H)(1)(a)(2) and (H)(1)(a)(4).

V. RECOMMENDATIONS

Under Rule 31 and §7-208 of the Arizona Code of Judicial Administration, persons granted certification as legal document preparers are exempt from the unauthorized practice of law. They are authorized to prepare and provide legal documents to "consumers" without the supervision of an attorney. The rationale for requiring certification is similar to the rationale for

1 licensure to practice law. Both are based upon the need to protect the public from possible harm
2 from the provision of legal services. In the case of legal document preparers, that possible harm
3 must be balanced against the public's need for access to those services when not provided by a
4 lawyer.

5 The Legal Document Preparers Program was implemented in 2003. Administered
6 through its own Board, it has a Code of Conduct and minimum standards for qualifications and
7 certification. Arizona's program has become a prototype for other jurisdictions.

8 As a prototype program, there is an absence of a specific body of law to guide its
9 interpretation. Because the practice of law is within the authority of the Supreme Court, and
10 because legal document preparers are engaged in the practice of law, the existing body of law for
11 legal discipline could be of assistance where their primary objectives are coextensive.

12 The present case illustrates the primary purpose for which certification is required. (i.e. to
13 protect the public from possible harm caused by non-lawyers preparing documents affecting the
14 legal rights of the public).

15 Toon raises the issue that none of the acts or omissions were undertaken "willfully"
16 pursuant to ACJA §7-208(H)(1)(a)(1). The Board has not alleged that Toon acted
17 "fraudulently." Hence, Toon argues that the prerequisite state of mind has not been established.
18 Toon suggests that the ABA Standards for Imposing Lawyer Sanctions should be considered as a
19 theoretical framework for the analysis of the misconduct alleged.² Those standards set forth a
20 four-factor analysis: the duty violated; the mental state; the extent of any injury or potential
21 injury; and a balancing of aggravating or mitigating factors.

22 This approach in fact aids in reaching objective recommendations and promotes
23 uniformity. Regarding factor number two; "mental state," Toon suggests her conduct was at
24 most negligent as defined in the ABA Standards. She suggests that "negligent" misconduct and

25 ² The Supreme Court of Arizona has consistently relied upon the ABA Standards for Imposing Lawyer Sanctions in disciplinary proceedings. *In re Clark*, 207 Ariz. 414, 87 P.3d 827 (2004).

1 "willful" misconduct categorically differ under §7-208(H)(1)(a)(1). Hence, she argues that the
2 mental state of "willful" as set forth in §7-208(H)(1)(a)(1), as a prerequisite to establishing
3 misconduct, has not been established.

4 In Arizona, the degrees of "negligence" have been defined on a Constitutional level.³ In
5 an exhaustive line of authority, the Arizona Supreme Court has resolved that willful conduct is a
6 form or degree of negligent conduct, not a difference in type. *Williams v. Thude*, 188 Ariz. 257,
7 934 P.2d, 1349 (en banc 1997); *Waring v. Falk*, 182 Ariz. 495, 896 P.2d 1381 (App. 1995).
8 Hence, to satisfy §7-208(H)(1)(a)(1), the Board is not required to prove that Toon intended a
9 specific act, omission or result.

10 Prior to entering into her relationship with Lopez, Toon held herself out as a certified
11 legal document preparer and avowed to abide by the ethical, professional and competency
12 requirements of §7-208. Hence, it is sufficient that the Board has proven by a preponderance of
13 the evidence that Toon "knew or should have known" to establish the mental state required to
14 establish misconduct.

15 With respect to duty, Toon's assertion that her actions were the result of morally good
16 intentions is not the standard by which her conduct may be considered. The standard is
17 established by consent and oath to follow and be bound by the Arizona Code of Judicial
18 Administration §7-208 and its Code of Conduct. It establishes the legal standards by which the
19 best interests of the "customer" and the public are not subordinated to those of the legal
20 document preparer, a licensed professional. Varying these standards, based upon subjective
21 beliefs, does not promote publicly protected access to legal services by non-lawyers.

22 With respect to injury, actual or potential, Toon held herself out as a legal professional in
23 a position superior to that of Lopez. Lopez sought Toon's legal services while in an emotionally

25 ³ See Uniform Contribution Among Tortfeasors Act; A.R.S. §12-2501 et seq.

1 and financially vulnerable condition. The Board has sustained its burden of proof by a
2 preponderance of the evidence that Toon violated the duties charged by gaining control over
3 Lopez' property, in their subsequent dealings, and the investigatory process. Lopez suffered
4 actual injury and now remains a party to ongoing civil litigation. As an additional consequence,
5 those standards set forth in the Conclusions of Law for the benefit of the legal system and
6 judicial process have been violated, lessening the public's confidence and trust in the legal
7 system.

8 To the extent that a consideration of further factors of the ABA Standards are consistent
9 with §7-208 and its Code of Conduct, aggravating factors are: vulnerability of the victim;
10 multiple offenses and false statements during the disciplinary process. Factors in mitigation
11 include inexperience and physical disability. ABA Standards for Imposing Lawyers Sanctions as
12 amended (Feb. 1992).

13 Accordingly, it is recommended that the Board impose the following sanctions:

- 14 1. that her certificate (AZCLDP80436) be revoked;
- 15 2. that a cease and desist order be issued by the Board pursuant to ACJA §7-
16 208(H)(15)(a)(5);
- 17 3. that costs be assessed under ACJA §7-208(H)(15)(a)(8).

18 As an additional sanction, the Board has requested that a fine be imposed for the
19 aggregate maximum of \$15,000.00. §7-208(C) states that the primary purpose of the Legal
20 Document Preparers Program is to protect the public and provide for the effective administration
21 of the program. The issue of the assessment of a "fine" requires analysis of the primary purpose
22 of the program and the nature of a "fine."

23 Black's Law Dictionary defines "fine" as both a verb and a noun. It is a pecuniary
24 punishment by payment of a penalty imposed by a lawful tribunal upon a person convicted of a
25 crime or misdemeanor. It may include a forfeiture of rights in a civil action. "Punishment" is

1 defined as any fine, penalty or confinement inflicted upon a person for some crime or offense
2 committed by him, but does not include a civil penalty. *Black's Law Dictionary 5th Ed.*, 569,
3 1110 (1979). Therefore, in this case would the imposition of a "fine" as an additional sanction
4 be consistent with the primary purpose of public protection through effective administration?

5 No direct authority could be located in Arizona where a fine has been authorized or
6 imposed in a disciplinary proceeding, as by definition they are "punishment." Little authority
7 could be located explaining a monetary transfer within a disciplinary proceeding assessed as
8 punishment versus restitution.

9 In a recent decision, the Ninth Circuit discussed this issue in the context of contempt
10 proceedings as a result of counsel's misconduct resulting in a mistrial.⁴ In that case, the court
11 defined "fine" as a punishment to vindicate authority in which criminal due process protections
12 would be required prior to its imposition. The court went on to explain that the purpose for the
13 monetary sanction is more important than the identity of its recipient. In that case it was payable
14 to the court as a cost to the system incurred up to the point of the misconduct in addition to
15 payment of the other party's attorneys fees.

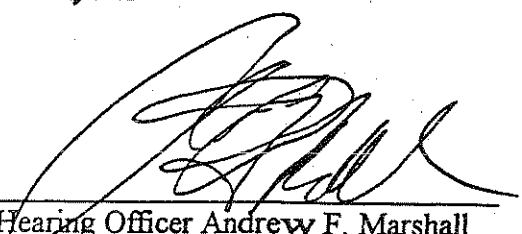
16 In this matter, the public is protected by sanctions 1 and 2. The efficient administration
17 of the program is accomplished by the assessment of costs. The imposition of a fine appears by
18 definition to be beyond the basic design of the program and the constitutional protections
19 afforded. This rationale is only reinforced where restitution of the victim is not requested.

20 Therefore, it is recommended that no fine be imposed.
21
22
23

25 ⁴ *L.A.S.A.R. v. Ford Motor Company*, 399 F.3d 1101, (9th Cir. 2005)

DATED this 10th day of May, 2005

By


Hearing Officer Andrew F. Marshall

ORIGINAL AND 3 COPIES HAND DELIVERED

This 10th day of May, 2005, to:


Linda B. Grau
Program Coordinator
To Be Filed With the Arizona Supreme Court
Certification and Licensing Division
1501 West Washington, Suite 104
Phoenix, Arizona 85007

COPIES for distribution to the
following:

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1501 West Washington, Suite 104
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By 

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

2) REVIEW OF PENDING COMPLAINTS

2-B: *Review, discussion and possible action regarding the Honorable William O'Neil's Finding of Fact and Conclusions of Law with Recommendation report in complaint number 08-L008 involving certificate holders Karina Morales and Servicios Hispanos.*

On May 26, 2011, Judge O'Neil filed the attached recommendation report in the formal disciplinary action in complaint number 08-L008 which addresses the legal issues raised in the certificate holders' Motion to Dismiss and makes a recommendation (addressed below). Also attached for the Board's review are the:

- Notice of Formal Statement of Charges filed on February 18, 2011,
- Certificate holders' Motion to Dismiss filed on April 22, 2011,
- Factual Stipulation filed on May 9, 2011,
- Program's Response to the Motion to Dismiss filed on May 12, 2011,
- Certificate holders' Motion for Reconsideration filed on June 9, 2011, and,
- Order re: Ruling on Motion for Consideration.

Judge O'Neil's analysis concluded with a recommendation the proposed disciplinary sanctions be implemented.

It is recommended the Board take the following actions:

1. Adopt the Factual Allegations of Misconduct in the February 18, 2011 Notice of Formal Statement of Charges and the May 9, 2011 Factual Stipulation as the Findings of Fact in complaint number 08-L008;
2. Adopt the Formal Charge in the February 18, 2011 Notice of Formal Statement of Charges and the Legal Analysis in Judge O'Neil's May 26, 2011 recommendation report as the Conclusions of Law in complaint number 08-L008;
3. Enter a finding Morales and Servicios Hispanos violated Arizona Revised Statutes § 12-2701 and § 12-2702, ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) and (J)(5)(a) by offering, advertising and providing immigration services without being qualified by law to do so, constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3);
4. Issue a Letter of Concern to Morales and Servicios Hispanos, pursuant to ACJA § 7-201(H)(24)(a)(6)(a);

5. Issue a cease and desist order enjoining Morales and Servicios Hispanos from offering, advertising or providing unauthorized services or services prohibited by law, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);
6. Assess costs associated with the investigation and related disciplinary proceedings in the amount of \$751.33, to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j); and,
7. Authorize the Chair to sign the Final Order on behalf of the full Board.

FILED

MAY 26 2011

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA
BY 

**BEFORE THE SUPREME COURT OF ARIZONA
LEGAL DOCUMENT PREPARER BOARD**

IN THE MATTER OF A CERTIFIED LEGAL
DOCUMENT PREPARERS:

KARINA MORALES,
Certificate Number 80255

SERVICOS HISPANOS
Certificate Number 80256

No. LDP-NFC-08-L008

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW
WITH RECOMMENDATION**

[Hearing Officer, Judge William J.
O'Neil]

A Complaint was filed against Respondent Certified Legal Document Preparer Karina Morales, Certificate number 80256. Karina Morales is the owner and operator of Respondent Servicios Hispanos, an Arizona Limited Liability Company which is also a Certified Legal Document Preparer, Certificate number 80256. It is undisputed that both Ms. Morales and Servicios Hispanos certifications have been renewed without interruption from the time they were both first certified and are currently in good standing and their certifications valid through June 30, 2011.

Background

On February 18, 2011 the Board of Legal Document Preparers (Board) issued a Notice of Formal Statement of Charges and Right to Hearing as a result of a complaint from Barbara Morejon arising out of the Respondents preparing applications on behalf of individuals who are representing themselves in matters before the United States Immigration and Citizenship Service.

1 On April 22, 2011, Respondents filed a Motion to Dismiss based upon the
2 argument that the Board lacked subject matter jurisdiction and Respondent was
3 otherwise entitled to the entry of judgment as a matter of law. Thereafter,
4 respective counsel and the hearing officer telephonically and off the record,
5 discussed the scheduling of the Motion. Based upon those discussions the
6 parties withdrew their request for a hearing, submitted a stipulation of facts and
7 agreed that the issue for the Board was an entirely a legal one and not a factual
8 determination. As a result the Motion to Dismiss became a Motion for Summary
9 Judgment except to the extent that the hearing officer issues a
10 recommendation to the Board rather than judgment and order. The hearing
11 officer adopts the factual stipulation of the parties filed on May 9, 2011 and
12 those facts are incorporated herein by this reference.

13 **Jurisdiction**

14 The parties have stipulated that this matter may be ruled upon as a
15 matter of law as the facts are not in dispute. However, subject matter
16 jurisdiction is foundational to any consideration of the case as the parties
17 cannot by consent confer jurisdiction which either the Board or this hearing
18 officer otherwise would not have. *Solomon v. Findley*, 165 Ariz. 45, 796 P.2d
19 477 (Ct. App. Div. 2 1990). Subject matter jurisdiction is an issue of law to be
20 resolved by the hearing officer. *Mitchell v. Gamble*, 207 Ariz. 364, 86 P.3d 944
21 (Ct. App. Div. 2004). Nothing precludes Respondent from seeking a judicial
22 determination of the constitutionality of this hearing officer or the Board.
23 Certainly there is nothing about this administrative process that would be
24 harmed by the Superior Court considering such issue. Typically two doctrines
25 interweave any analysis on such issue. Arizona has adopted the doctrine of

1 primary jurisdiction which determines whether a court or an administrative
2 agency should make the initial decision in a case. *Wonders v. Pima County*,
3 207 Ariz. 576, 89 P.3d 810 (Ct. App. Div. 2 2004). This doctrine is separate
4 and distinct from the doctrine requiring the exhaustion of administrative
5 remedies. This latter rule was created by the courts to effectuate the efficient
6 handling of cases where an administrative agency's expertise may be helpful.
7 The former doctrine determines who should hear the case while the latter
8 determines when judicial review is available. Here despite the stipulation of
9 facts, there is logic to proceeding in the administrative setting and exhausting
10 administrative remedies.

11 This hearing officer and the Board have subject matter jurisdiction over
12 this issue. As pointed out by Respondent in their motion, the practice of law in
13 Arizona "is a matter exclusively within the authority of the Judiciary." *Hunt v.*
14 *Maricopa County Employees Merit System et. al.*, 127 Ariz. 259, 619 P.2d 1036,
15 (1980). The issue is not whether the Board has jurisdiction over Certified Legal
16 Document Preparers. It is clear that the Supreme Court has delegated its
17 power by amending the Arizona Code of Judicial Administration thereby creating
18 the Board and empowering it. Nothing precludes the Supreme Court from such
19 delegation. It appears it is a separate issue that Respondent raises.

20 Issue

21 The issue is whether Respondents are authorized by their certification as
22 a Legal Document Preparers to advertise, offer and provide immigration related
23 services, including the preparation of immigration applications, on behalf of
24 individuals who are representing themselves in matters before the United
25

1 States Immigration and Citizenship Service or whether those actions violate the
2 duties of a Legal Document Preparer.

3 Legal Analysis

4 **1. The Authority of the Supreme Court.**

5 Identifying what may be construed to be the authorized or unauthorized
6 practice of law has prompted much controversy for many years in Arizona. In
7 1961, the Arizona Supreme Court issued its decision in *State Bar of Arizona v.*
8 *Arizona Land Title & Trust Co.*, 90 Ariz. 76, 366 P.2d 1 (1961). In that case the
9 Court addressed the practice of title companies in Arizona "regularly and
10 continuously preparing, drafting and formulating documents affecting title to
11 real property for their numerous 'clients, patrons, and customers', and giving
12 legal advice regarding such transactions and instruments so drafted,
13 constituting the unauthorized practice of law." Citing *In re Greer*, 52 Ariz. 385,
14 389-90, 81 P.2d 96, 98 (1938) the court stated its exclusive authority.
15 "...although the legislature may impose additional restrictions which affect the
16 licensing of attorneys, it cannot infringe on the ultimate power of the courts to
17 determine who may practice law."

18 This ruling began the line of cases outlining that court's constitutional
19 authority to govern the practice of law as well as the unauthorized practice of
20 law in Arizona. This seminal case was later followed by the 1985 repeal of the
21 Arizona law prohibiting the unauthorized practice of law. These two events cast
22 a clarifying light on the stated authority of the Arizona Supreme Court over the
23 practice of law. The legislature has declined to question the Supreme Court's
24 authority in this area. While bills have been proposed by the legislature, none
25

1 have even been submitted by the legislature to the Governor for consideration
2 as law.

3 *In re Creasy*, 198 Ariz. 539, 12 P.3d 214 (2000), the Court addressed a
4 controversy involving its jurisdiction over a previously disbarred lawyer. *Creasy*
5 had argued the Supreme Court lacked jurisdiction over him because he had
6 been disbarred and therefore was no longer an attorney. The Court
7 acknowledged "[t]he facts of this case do not require us to determine the
8 extent of our power to regulate 'practitioners' who are not and have never been
9 lawyers." However the language of the case was broad and sweeping all the
10 same. The Court stated its power over the practice of law and its power to
11 prohibit or enjoin the unauthorized practice of law were based on Articles III
12 and VI section 1 and 5(4) of the Arizona Constitution.

13 **2. The Authority of the Law Regulating Immigration Practices.**

14 In the late 1980s and early 1992 the Phoenix press chronicled the plight
15 of immigrants who were defrauded of hundreds and, in many cases, thousands
16 of dollars by unscrupulous and abusive notary publics who advertised in a
17 foreign language naming themselves as "notarios." This term in Mexico and
18 other civil law countries has a different connotation than the term "notary
19 public" does in the United States. A notario or notario publico in civil law
20 countries is synonymous with "attorney" as opposed to the United States where
21 notaries public are recognized for holding a witnessing position. In response
22 the Arizona legislature enacted the Immigration and Nationality Law Practice
23 Act in 1993, partly in acknowledgement of these problems. This act recognizes
24 the propriety of representation by non-lawyers that fall within one or more of
25

1 five categories, to represent individuals before administrative agencies such as
2 the INS. That law has a stated purpose to:

3
4 Prevent the unauthorized practice of immigration and
5 nationality law by nonlawyers who hold themselves out as
6 immigration consultants rendering services in
7 immigration, nationality or citizenship matters and who
8 are outside pertinent federal regulations regulating the
9 practice of immigration law and the unauthorized practice
10 of this state's law by attorneys not admitted to the
11 practice of law by the state bar of Arizona. The
12 provisions...are intended to be consistent with federal
13 immigration regulations. 1993 Ariz. Sess. Laws 503.

14 Individuals who violate the provisions of the Immigration Practice Act are guilty
15 of a class one misdemeanor.

16
17 In 2003 by Administrative Order the Supreme Court established the Legal
18 Document Preparer Program by its amendment to the Arizona Code of Judicial
19 Administration (ACJA). The Supreme Court again discussed its inherent power
20 to regulate the practice of law in Arizona in the case *Scheele v. Justices of the*
21 *Supreme Court of Arizona*, 211 Ariz. 282, 120 P3d 1092 (2005).

22 **3. The Conflict Respondent Argues that the Supreme Court** 23 **Certification "trumps" the law.**

24 This line of cases makes clear the Supreme Court's position. The final
25 analysis then must be based upon whether the law regarding immigration and
nationality law infringes upon that exclusive authority of the Court. Certainly if
state law does so infringe, it would be highly questionable for the Board, an
entity created by the Supreme Court, to question the authority granted by the
Supreme Court to document preparers certified under the ACJC. However,
ultimately such analysis ignores a more fundamental hurdle which Respondents
have not overcome and which drives the recommendations of this hearing

1 officer. There is an overarching reason these actions complained of by the
2 Board are not and cannot be approved by the Supreme Court of Arizona.
3 Immigration and Nationalization law are federal law issues. Federal law
4 preempts this area of endeavor practiced by Respondents. As stated in its
5 purpose above, the state law at issue merely mirrors federal law.

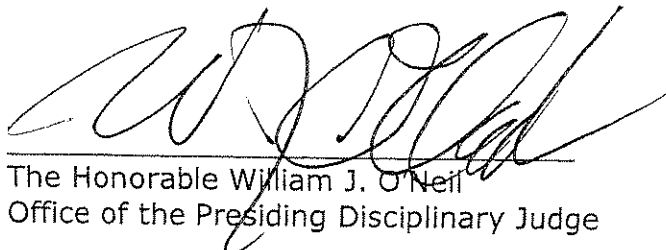
6 The stipulated actions of Respondents conflict with federal law. 8 C.F.R.
7 §292.1 (1999). Even if the Arizona Supreme Court intended to authorize a
8 Certified Document Preparer to perform the work admittedly done by
9 Respondents, (and this hearing officer makes no such finding) federal law
10 preempts Arizona law and the ability of the Arizona Supreme Court to authorize
11 such conduct. The preemption doctrine derives from the Supremacy Clause of
12 the United States Constitution. The "Constitution and the laws of the United
13 States...shall be the supreme law of the land...anything in the constitutions or
14 laws of any State to the contrary notwithstanding." Any federal law or
15 regulation of a federal agency supersedes any conflicting state law including the
16 power of the Arizona Supreme Court derived through this state's Constitution.

17 **Recommendation**

18 For these reasons, unless and until Respondents adhere to federal law
19 governing this area of practice, the hearing officer recommends the proposed
20 disciplinary sanctions be implemented.

21 DATED this 26 day of May, 2011.

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The Honorable William J. O'Neil
Office of the Presiding Disciplinary Judge

1 Original filed with the Disciplinary Clerk
this 28 day of May, 2011.

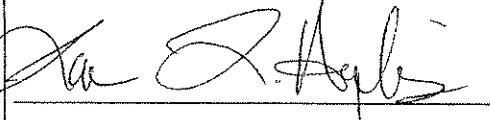
2 COPY of the foregoing mailed
3 this 28 day of May, 2011, to:

4 Board of Legal Document Preparer
1501 W. Washington, Suite 104
5 Phoenix, AZ 85007-3231

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11 Kevin O. Torrey
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3221 N. 24th Street
13 Phoenix, AZ 85016
Attorney for Karina Morales and Servicios Hispanos

14 
15 _____

FILED

FEB 18 2011

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA
BY M. Smith

ARIZONA SUPREME COURT
BOARD OF LEGAL DOCUMENT PREPARERS

IN THE MATTER OF CERTIFIED LEGAL
DOCUMENT PREPARERS:

No. LDP-NFC-08-L008

KARINA MORALES,
Certificate Number 80255,

NOTICE OF FORMAL
STATEMENT of
CHARGES and RIGHT to
HEARING

And

SERVICIOS HISPANOS, LLC,
Certificate Number 80256.

JURISDICTION

Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201 and ACJA § 7-208, the Board of Legal Document Preparers ("Board") serves this Notice of Formal Statement of Charges and provides notice to Karina Morales ("Morales") and Servicios Hispanos, LLC that they have a right to request a hearing on the proposed disciplinary action involving certificate numbers 80255 and 80256. The Board has jurisdiction over this matter as both Morales and Servicios Hispanos were granted legal document preparer certification effective July 1, 2003. Morales' individual certification and Servicios Hispanos, LLC's business entity certification have been renewed without interruption and their certificates are valid through the certification period which ends June 30, 2011. Morales is the named designated principal for Servicios Hispanos, LLC.

1 The complaint was received during the period of Morales and Servicios Hispanos'
2 active certifications and the certificate holders were provided an opportunity to respond to the
3 complaint and participate in the investigation of the complaint. The Board holds the authority
4 to proceed with this action pursuant to ACJA § 7-201(D)(5)(c).

5 Pursuant to ACJA § 7-201(H)(24)(a), the Board may find no violation has occurred and
6 dismiss the complaint or may enter a finding of violation(s) and impose sanction(s) through and
7 including revocation, assessment of costs, and civil penalties.

8
9 On July 30, 2010, pursuant to ACJA § 7-201(H)(5)(a)(3), Probable Cause Evaluator
10 Mike Baumstark entered a finding probable exists in complaint number 08-L008. The
11 particular sections of laws, court rules, ACJA, and orders relevant to complaint number 08-
12 L008 are Arizona Revised Statutes ("ARS") § 12-2701 and § 12-2702, ACJA § 7-201(F)(1)
13 and ACJA § 7-208(F)(2) and (J)(5)(a).

14 On September 27, 2010, the Board accepted the finding of the Probable Cause
15 Evaluator and entered a finding grounds for disciplinary action exists pursuant to ACJA § 7-
16 201(H)(6)(a) and (H)(6)(k)(3).

17 ANSWER OF CERTIFICATE HOLDER

18 Pursuant to ACJA § 7-201(H)(11), Morales and Servicios Hispanos, LLC shall file an
19 Answer to this Notice of Formal Statement of Charges within fifteen (15) days of receipt of this
20 Notice. Morales and Servicios Hispanos' Answer shall comply with Rule 8 of the Arizona
21 Rules of Civil Procedure. Any defenses not raised in the Answer are waived. If Morales and
22 Servicios Hispanos fail to file an Answer within the time provided, they are in default and the
23 factual allegations in the formal charges are deemed admitted and the Board may determine the
24 matter against Morales and Servicios Hispanos. Morales and Servicios Hispanos' Answer shall
25

1 be filed with the Arizona Supreme Court Disciplinary Clerk, Suite 104, 1501 West
2 Washington, Phoenix, Arizona 85007.

3 **NOTICE OF RIGHT TO HEARING**

4 Pursuant to ACJA § 7-201(H)(12), Morales and Servicios Hispanos may request a
5 hearing within fifteen (15) days of receipt of the Notice of Formal Charges and Right to
6 Hearing. Their Request for Hearing must comply with ACJA § 7-201(H)(12) and shall be filed
7 with the Arizona Supreme Court Disciplinary Clerk, 1501 West Washington, Suite 104,
8 Phoenix, Arizona 85007. If Morales and Servicios Hispanos do not timely file a Request for
9 Hearing, they will not have a right to a hearing.
10

11 **BACKGROUND FACTS**

12 1. On February 26, 2008, the Certification and Licensing Division ("Division") received a
13 written complaint from Barbara Morejon ("Morejon") involving Morales and Servicios
14 Hispanos, LLC.

15 2. On March 14, 2008, the Division sent Morales and Servicios Hispanos a copy of the
16 complaint and notice of the ACJA § 7-201(H)(3)(c) requirement they submit a written response
17 to the complaint within thirty (30) days. On the same date, under separate cover, Division
18 Investigator Tony Posante ("Investigator Posante") sent a letter to Morales requesting she
19 provide a Spanish-to-English translation of Morales' Servicios Hispanos business card
20 submitted with the complaint and clarification of Morales' definition of "nominal".
21

22 3. On March 31, 2008, Morales and Servicios Hispanos submitted their written response
23 to the complaint, complying with time line required by ACJA § 7-201(H)(3)(c).

24 4. Arizona Corporation Commission records reflect Morales is the only Member and only
25 Manager of Servicios Hispanos, LLC.

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FACTUAL ALLEGATIONS OF MISCONDUCT

The Board, having knowledge sufficient to form a belief as to the truth of this information, hereby alleges and finds as follows:

5. On February 26, 2009, the Division received the written complaint from Morejon involving Morales and Servicios Hispanos which alleged Morales and Servicios Hispanos were offering and advertising to provide immigration related services in violation of ARS and Arizona Supreme Court Rule 31. With her written complaint, Morejon provided a copy of Morales' Servicios Hispanos business card, a purported Servicios Hispanos fee worksheet and an photograph of the exterior signage at the Servicios Hispanos office location.

6. Morales' business card lists (in Spanish) thirteen services offered by Morales and Servicios Hispanos. The card also contains the statement, "Esta cansado de engaños, llámenos para una Consulta Gratis. Contamos con abogado de inmigración y Criminal". [English translation: "Are you tired of lies? Call us for a free consultation. We have attorneys with specialty in immigration and criminal law."]

7. Morejon provided a copy of a purported Servicios Hispanos fee worksheet dated July 27, 2007. The worksheet offered fee estimates of \$1,510.00 for United States Citizenship and Immigration Services fees and \$1,700.00 of service fees for Servicios Hispanos.

8. ARS § 12-2701(3)(a) and (b) provide:

3. "Unauthorized practice of immigration and nationality law" means:

(a) The act of any person appearing in any case, either in person or through preparation or filing of any brief or other document, paper, application or petition on behalf of another person or client before or with the immigration and naturalization service, or any officer of the immigration and naturalization service, the executive office for immigration review or the board of immigration appeals, without authorization under this chapter.

1 (b) The study of the facts of a case and the applicable laws, coupled with giving advice
2 and auxiliary activities, including the incidental preparation of papers, without
3 authorization under this chapter, but does not include the lawful functions of a
4 notary public, nonprofit organization or service consisting solely of assistance in the
5 completion of blank spaces on printed immigration and naturalization service forms
6 by a person whose remuneration, if any, is nominal and who does not hold himself
7 out as qualified in legal matters or in immigration and naturalization procedure.

8 ARS § 12-2702 defined individuals and entities permitted represent a person desiring
9 immigration and nationality services:

- 10 • An attorney in the United States
- 11 • A law student enrolled in an accredited university, or law school graduate not yet
12 admitted to the Bar (with conditions).
- 13 • A person with a connection to the person desiring services, such as a relative, neighbor,
14 friend; and who has declared in writing they are working for free.
- 15 • A person representing a Bureau of Immigration Appeals ("BIA") accredited
16 organization; and if such person is BIA accredited themselves.
- 17 • An accredited governmental official (with conditions).

18 ARS § 12-2702 states:

19 Except as otherwise provided in this section, no other person or persons may represent
20 others in any case, prepare applications or forms or give any legal advice relating to any
21 immigration or nationality matters in violation of this chapter.

22 9. On March 31, 2008, Morales and Servicios Hispanos submitted a written response to
23 the complaint, complying with time line required by ACJA § 7-201(H)(3)(c). Morales'
24 response noted complainant Morejon is former competitor and, on that basis, that Morales
25 believed the complaint should be dismissed. Morales provided the requested Spanish-to-
English translation of the business card presented with the complaint, reported she changed the
content of the card, and provided a copy of the amended card. Morales' Spanish to English
translations of services listed on her business card were, "Family Petitions, Citizenship, Visa V
Visa K, Labor Certification, Civil Matrimony, Investigation of your case in Immigration,
Professional Visa, Family Unity, Adjustment, Renewal of Work Permit, Travel and residency,
NACAR, Visa for Investors (Business Owners) E1-E2, Ministry Visa R-1." Morales' response

1 also indicated she has removed the "Contamos con abogado de inmigracion y Criminal"
2 statement from her new business card noting, "I don't want a consumer or client think (sic) we
3 might be associated with an attorney or think that we are supervised by one."

4 10. On April 3, 2008, Investigator Posante accessed and reviewed Servicios Hispanos'
5 website, www.hispanohelp.com. The "About Us" page of the website provided biographical
6 information for Morales and read:

7 Karina Morales is the founder of Servicios Hispanos and she has more than ten years
8 experience in the Immigration and Naturalization field. Her specialty is family petitions
9 and all immigration legal services concerning Latin Americans and Hispanic community
10 of the United States. Presently she provides Labor Certification consultations and visas for
11 professionals seeking work permits or employment visas such as H-1B or L-1. Her
12 satisfaction is the accomplishment of the visa requirements of the clients. She is an expert
13 in availing permanent residence (green card), work permits and travel document (advance
14 parole). She also provides legal assistance for deportation hearing in collaboration with an
15 experience immigration attorney.¹

16 11. On May 3, 2008, Morales provided additional clarification request by Investigator
17 Posante and confirmed she is the only person who prepares immigration documents for
18 Servicios Hispanos customers and confirmed neither she nor any other employees of Servicios
19 Hispanos are Bureau of Immigration Appeals accredited representatives.

20 12. Arizona Codes of Judicial Administration ("ACJA") § 7-201(F)(1) and § 7-208(F)(2)
21 require all certified legal document preparers to comply with the ACJA § 7-208(J) Code of
22 Conduct. ACJA § 7-208(J)(5)(a) reads, "A legal document preparer shall perform all duties
23 and discharge all obligations in accordance with applicable laws, rules court orders."

24 13. Division records reflect Morales is not an attorney admitted to practice in Arizona.

25 FORMAL CHARGES

14. Morales and Servicios Hispanos violated Arizona Revised Statutes ("ARS") § 12-
2701 and § 12-2702, ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) and (J)(5)(a) by offering,

¹ The website <http://www.hispanohelp.com/>, as of the drafting of this pleading, has been amended and the only viewable content reads, "Website is under construction from October 10, 2010".


1 advertising and providing immigration services without being qualified by law to do so;
2 constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).

3 **PROPOSED DISCIPLINARY SANCTIONS**

4 The Board, based on the foregoing factual allegations of misconduct, is seeking the
5 following disciplinary sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

- 6 a) Issue a Letter of Concern to Morales and Servicios Hispanos; pursuant to ACJA § 7-
7 201(H)(24)(a)(6)(a);
8
9 b) Issue a cease and desist order enjoining Morales and Servicios Hispanos from offering,
10 advertising or providing unauthorized services or services prohibited by law, pursuant to
11 ACJA § 7-201 (H)(24)(a)(6)(g); and,
12
13 a) Assess costs associated with the investigation and related disciplinary proceedings to be
14 remitted no later than sixty (60) days following entry of the Board's Final Order,
15 pursuant to ACJA § 7-201(H)(24)(a)(6)(j).

16 DATED this 18th day of February, 2011.

17 
18 _____
19 Les Krambeal, Chair
20 Board of Legal Document Preparers
21
22
23
24
25

1 An original copy of the foregoing to be served to:

2 Karina Morales
3 Servicios Hispanos
4 2215 North 24th Street
Phoenix, Arizona 85008

5 The original copy of the foregoing hand delivered and/or mailed this 18th day of February
6 2011, to:


7 Kevin O. Torrey
8 10220 North Central Avenue
Phoenix, Arizona 85020

9 Rex Nowlan
10 Administrative Law Section
11 Office of the Attorney General
15 South 15th Avenue, 4th Floor
Phoenix, Arizona 85007

12 Nina Preston, Assistant Counsel
13 Administrative Office of the Court
14 1501 West Washington
Phoenix, Arizona 85007

15 Certification and Licensing Division
16 Arizona Supreme Court
1501 West Washington, Suite 104
Phoenix, Arizona 85007

17
18 By:


19 Debbie MacDougall, Programs Specialist
20 Certification and Licensing Division

21 Y:\COMPLAINT INVESTIGATIONS\OPEN COMPLAINTS\LDP MORALES, KARINA 08-L008\WFC MORALES 08-L008.DOC
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FILED

APR 22 2011

The Law Office of Kevin O. Torrey, PLLC
3221 N. 24th Street,
Phoenix, Arizona 85016
Kevin O. Torrey, SBN# 022300
(602) 955-0139

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA
BY 

BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF CERTIFIED LEGAL
DOCUMENT PREPARERS:

No. LDP-NFC-08-L008

KARINA MORALES,
Certificate Number 80255,

DEFENDANT'S MOTION TO DISMISS

And

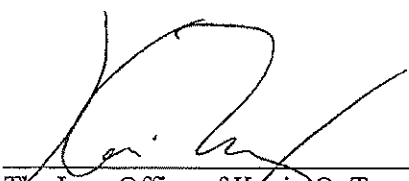
Servicios Hispanos,
Certificate Number 80256.

Honorable William J. O'Neil

Respondent herein, by and through undersigned counsel, hereby moves the Court, moves the Court to dismiss this matter with prejudice, on the grounds and for the reason that the Board of Legal Document Preparers lacks subject matter jurisdiction over the instant matter, and Respondent is otherwise entitled to the entry of judgment as a matter of law.

This Motion is supported by the accompanying Memorandum of Points and Authorities and all the pleadings of record in this matter, which are incorporated herein by this reference.

RESPECTFULLY SUBMITTED this 22nd day of April, 2011.


The Law Office of Kevin O. Torrey, PLLC
3221 N. 24th Street,
Phoenix, Arizona 85016
Kevin O. Torrey, SBN# 022300
(602) 955-0139

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **BACKGROUND FACTS**

3 On July 25, 2007, Ms. Barbara Morejon, entered into a Consent Decree with the State
4 Bar of Arizona whereby she agreed to cease the unauthorized practice of law.

5 On February 26, 2008, an angry Morejon filed a complaint with the Board of Legal
6 Document Preparers ("Board") alleging that Respondent Ms. Karina Morales was herself
7 engaged in the unauthorized practice of law and must therefore also cease to operate her
8 business, Servicios Hispanos. The Board assigned complaint number 08-L008 to Morejon's
9 allegation.

10 The matter was then assigned to Board investigator Tony Posante, who conducted a
11 cursory "investigation", asking Ms. Morales if she prepared legal documents on behalf of
12 individuals representing themselves before the United States Citizenship and Immigration
13 Service ("USCIS"). Ms. Morales, a Certified Legal Document Preparer ("CLDP"),
14 Certification Number 80255, affirmed that she did in fact prepare legal documents, both on her
15 own and as a representative of her business, Servicios Hispanos, also a CLDP, Certification
16 Number 80256, for members of the public who were representing themselves before the USCIS.
17 After a careful review of the applicable statutes and Supreme Court Rules, Posante, who is not
18 an attorney, prepared an Investigation Summary.

19 Issued on May 7, 2008, the Investigation Summary provided Posante's opinion that
20 probable cause existed for the Board to take action against the licenses of both Ms. Morales and
21 Servicios Hispanos.

22 On April 12, 2010, Ms. Linda Grau, Unit Manager for the Board's Certification and
23 Licensing Division, issued her analysis of the allegations against Ms. Morales. Grau, who is
24 also not an attorney, concluded that Arizona Revised Statutes §§ 12-2701 and 12-2702 prohibit
25 Ms. Morales and Servicios Hispanos from providing immigration services.

26 On June 3, 2010, Ms. Nancy Swetnam, Division Director of the Board's Certification of
27 Licensing Division, issued her review of Grau's findings. Swetnam, who is not an attorney,
28 concurred with Grau's findings and approved the complaint to be forwarded to the Probable

1 Cause evaluator, recommending a finding that probable cause existed to take action against Ms.
2 Morales.

3 On July 30, 2010, Mike Baumstark, Probable Cause Evaluator, after having conducted
4 an independent review of the facts and evidence gathered during the course of the investigation,
5 issued his decision. Baumstark, who is not an attorney, determined that probable cause existed
6 to take action against Ms. Morales.

7 On September 27, 2010, the Board reviewed and discussed the complaint at their
8 regularly scheduled meeting. At that meeting, Les Krambeal, Chairman of the Board, signed on
9 behalf of the Board an Order adopting the Recommendations of the Division Director and
10 entering a finding that grounds for formal disciplinary action existed.

11 On October 13, 2010, Grau, on behalf of the Board, issued a letter to Ms. Morales,
12 indicating that the Board intended to take formal disciplinary action against Ms. Morales. In the
13 alternative, the letter offered Ms. Morales the opportunity to enter into a Consent Decree that
14 Grau, who is not an attorney, had prepared, in which Ms. Morales could simply admit to
15 wrongdoing, pay a fine, and agree to cease and desist from preparing legal documents on behalf
16 of individuals representing themselves in immigration or naturalization matters.

17 On October 30, 2010, Ms. Morales, through counsel, issued a response to the Board,
18 indicating her belief that her conduct was legally supported and requesting that the Board enter
19 into an alternative Consent Decree provided with her response. Ms. Morales received no
20 response to her offer.

21 Instead, on February 18, 2011, the Board conducted its scheduled public open meeting,
22 at which Ms. Morales's complaint was to be discussed. Ms. Morales appeared, both personally
23 and through counsel, and requested to address the Board. The board declined to allow Ms.
24 Morales to speak. Instead, Grau presented the Investigation Summary and other matters to the
25 Board, after which the Board voted to take action against Ms. Morales. After entering its vote
26 and finishing the scheduled calendar, the Board allowed Ms. Morales to comment on the action
27 it had already taken.

28 On March 8, 2011, Ms. Morales, through counsel, provided her answer to the Board's
Complaint, requesting that the matter be dismissed.

1 On March 16, 2011, the Presiding Disciplinary Judge issued a Notice of Assignment,
2 setting the matter for an Initial Case Management Conference on March 31, 2011. At the
3 conference, Ms. Morales indicated her intent to file a dispositive motion prior to setting the
4 matter for hearing.

5 The Court, set the matter for hearing as required, but acknowledge that in the event Ms.
6 Morales timely filed her motion, the hearing date could be moved as required.

7 **LEGAL ARGUMENT**

8 **I. Regulation of the Practice of Law**

9 Article 3 of the Arizona Constitution states that "The powers of the government of the
10 state of Arizona shall be divided into three separate departments, the legislative, the executive,
11 and the judicial; and, except as provided in this constitution, such departments shall be separate
12 and distinct, and no one of such departments shall exercise the powers properly belonging to
13 either of the others."

14 Article 6, § 1 of the Arizona Constitution then dictates that "the judicial power shall be
15 vested in an integrated judicial department." Since "the practice of law is so intimately
16 connected and bound up with the exercise of judicial power in the administration of justice ...
17 the right to define and regulate its practice naturally and logically belongs to the judicial
18 department." *Scheehle v. Justices of the Supreme Court of the State of Arizona*, 211 Ariz. 282, at
19 290, citing *In re Shannon*, 179 Ariz. 52, 876 P.2d 548 (1994). This authority has been
20 recognized "since the early days of statehood." *Scheehle v. Justices of the Supreme Court of the*
21 *State of Arizona*, 211 Ariz. 282, at 290, citing *State Bar of Ariz. v. Ariz. Land Title & Trust Co.*,
22 90 Ariz. 76, 366 P.2d 1 (1961).
23
24

25 As the Arizona Supreme Court has summarily stated, "the practice of law is a matter
26 *exclusively* within the authority of the Judiciary." *Hunt v. Maricopa County Employees Merit*
27 *System; et. al.*, 127 Ariz. 259, at 261, 619 P.2d 1036, at 1038 (1980) (emphasis added). The
28 plain meaning of this language indicates that neither the Legislative nor Executive branches of
government have any authority in this area.

1 Therefore, as the Supreme Court stated, “[t]he determination of who shall practice law
2 in Arizona and under what condition is a function placed by the state constitution in this court.”
3 *Hunt v. Maricopa county Employees Merit System; et. al.*, 127 Ariz. 259, at 261, 619 P.2d 1036,
4 at 1038. And in exercise of its regulatory authority, the Supreme Court crafted Rule 31 of the
5 Arizona Rules of the Supreme Court, appropriately titled “Regulation of the Practice of Law.”

6 Rule 31(a)(1) states that “[a]ny person or entity engaged in the practice of law or
7 unauthorized practice of law in this state, as defined by these rules, is subject to this court’s
8 jurisdiction.”

9 **A. What Constitutes the Practice of Law in Arizona**

10 What constitutes the practice of law in Arizona? According to Rule 31(a)(2)(A),
11 “Practice of law” means “providing legal advice or services to or for another” in five different
12 ways. The very first definition of the practice of law, Rule 31(a)(2)(A)(1), comes through the
13 provision of legal services by “preparing any document in any medium intended to affect or
14 secure legal rights for a specific person or entity.” As if to stress the importance, Rule 31
15 reiterates in section (a)(2)(A)(4) that it is considered the practice of law to provide legal services
16 by “preparing any document through any medium for filing in any court, administrative agency
17 or tribunal for a specific person or entity.” Clearly, the Supreme Court views the preparation of
18 legal documents as the practice of law.

19 **B. Who May Practice**

20 Who, then, has the authority to practice law through the preparation of legal documents?
21 Rule 31(b) “Authority to Practice” indicates that, “*Except as hereinafter provided in section (d)*,
22 no person shall practice law in this state ... unless the person is an active member of the state
23 bar.” (emphasis added) Since the state bar is the regulatory authority governing attorneys in
24 Arizona, it is therefore clear that no person who is not a lawyer is allowed to prepare legal
25 documents, that is, unless that person fits into the previously-mentioned section (d) of Rule 31.

26 **C. Exceptions to the Rule**

27 Rule 31(d), titled “Exceptions”, provides a rather extensive list of exceptions for groups
28 or individuals to whom the Supreme Court has given a limited exemption from the definition of
unauthorized practice of law, in effect rendering these exempt groups “authorized” to practice

1 law under the limited circumstances provided in the exception. One of those exceptions, (d)(24),
2 is of paramount importance to the instant matter.

3 "In January, 2003, the Supreme Court of Arizona, by administrative order, adopted a
4 new section to the Code of Judicial Administration, Section 7-208, and established the Legal
5 Document Preparer Program." *Sobol v. Alarcon*, 212 Ariz. 315, at 316, 131 P.3d 487, at 488.
6 Pursuant to this same section, 7-208(D)(4), the Board of Legal Document Preparers was created
7 in order to regulate the newly-established program. *Id.*

8 In ACJA § 7-208(c), titled "Purpose", the Court provides the rationale behind the
9 creation of the new profession, but not before first reiterating that "[t]he supreme court has
10 inherent regulatory power over all persons *providing legal services* to the public, regardless of
11 whether they are lawyers or nonlawyers." (emphasis added) It serves no purpose to make
12 reference to the authority over the provision of legal services by nonlawyers in the section
13 creating the Legal Document Preparer Program unless the Supreme Court recognizes that the
14 work to be performed by Legal Document Preparers necessarily constitutes "legal services"
15 through the preparation of legal documents as defined in Rule 31.

16 In fact, the Court's stated "Purpose" addressed the issue of legal services directly. "The
17 court recognizes ... that the need to protect the public from possible harm caused by nonlawyers
18 providing legal services must be balanced against the public's need for access to legal services."
19 Accordingly, § 7-208 was intended to "Protect the public through the certification of legal
20 document preparers to ensure conformance to the highest ethical standards and performance of
21 responsibilities in a professional and competent manner."

22 The services of a lawyer are often prohibitively expensive. Unfortunately, it is
23 impossible to conduct any legal dispute without the use of legal documents, at the very least a
24 complaint or an answer. Until the creation of the Legal Document Preparer Program,
25 individuals engaging in self-representation would have no one to assist in the preparation of any
26 documents unless that person could afford the services of a lawyer, because anyone else
27 desiring to assist such a person would be prohibited from doing so, because their assistance
28 would constitute the practice law.

1 Such a regulatory regime hampers the efficiency of the legal process as a whole. Lay
2 parties without legal training often find it difficult to narrow down the legal issues in their
3 matters or to cite to the relevant legal authority to resolve those issues. This makes it difficult
4 for these parties to protect their rights in their legal matters. In addition, the courts are then
5 placed in the position of having to decipher the intentions of the parties before they can begin to
6 consider the merits of the claims, which can create a set of issues in its own right.

7 The Legal Document Preparer Program solves both of these problems.

8 **D. Exemption (d)24 - Legal Document Preparers**

9 The passage of ACJA § 7-208 was incomplete standing alone. While the purpose of
10 § 7-208 was clear, the Supreme Court recognized that a potential conflict existed between the
11 Rule 31 prohibition against the preparation of legal documents by anyone not admitted to the
12 State Bar of Arizona and the newly-granted authority of Legal Document Preparers to do
13 exactly that. To resolve the conflict, on January 16, 2003, the Supreme Court issued
14 Administrative Order No. 2003-14, which noted that “Rule 31, Rules of the Supreme Court,
15 provides for the regulation and discipline of persons engaged in the practice of law, and
16 provides exceptions where nonlawyers who have not been admitted to the State Bar of Arizona,
17 may perform special legal services.”

18 The Order further states that “Legal document preparers are nonlawyers who prepare or
19 provide legal documents, without the supervision of an attorney for an entity or a member of the
20 public who is engaging in self representation in any legal matter.”

21 Therefore, in recognition of the obvious conflict between the Rule 31 prohibition against
22 the preparation of legal documents by anyone not admitted to the State Bar of Arizona and the
23 newly-granted authority of Legal Document Preparers to prepare those legal documents, the
24 Order points out that “[t]he State Bar of Arizona filed a Rule 28 petition proposing an
25 amendment to Rule 31 to provide an additional exception, *to permit legal document preparers*
26 *to perform specified legal services.*” (emphasis added)

27 That amendment became the exemption listed in Rule 31(d)(24), which states that
28 “Nothing in these rules shall prohibit a certified legal document preparer from performing

1 services in compliance with Arizona Code of Judicial Administration, Part 7, Chapter 2, Section
2 7-208."

3 In summary, Legal Document Preparers are exempt from the prohibition against non-
4 attorneys preparing legal documents on behalf of those who are representing themselves, so
5 long as their conduct falls within the grant of authority outlined in ACJA § 7-208.

6 **E. Authority Granted Under § 7-208**

7 ACJA § 7-208(F)(1), titled "Authorized Services", states that "A certified legal
8 document preparer is authorized to: (1) Prepare or provide legal documents, without the
9 supervision of an attorney, for an entity or a member of the public *in any legal matter* when that
10 entity or person is not represented by an attorney." (emphasis added) The grant does not
11 authorize action in "certain" legal matters or in "designated" legal matters. The grant of
12 authority is both broad and specific – legal document preparers may provide their authorized
13 services in *any legal matter*.

14 **F. Conclusion**

15 In creating the exemption contemporaneously with the creation of the Legal Document
16 Preparers Program, the Supreme Court addressed the fact that ACJA § 7-208 created a group of
17 professionals whose authorized services would otherwise have been prohibited under Rule 31.
18 Exemption (d)(24), is very clear regarding exactly what factors might be construed to limit in
19 some way the authority the Supreme Court was granting to Legal Document Preparers –
20 "Nothing in these rules".

21 Legal Document Preparers may prepare or provide legal documents in *any* legal matter.

22 **II. The Immigration & Nationality Law Practice Act**

23 In the instant matter, the Board alleges that Ms. Morales has engaged in the
24 "unauthorized practice of immigration and nationality law" as that term is defined in A.R.S. §
25 12-2701 and § 12-2702 of the Immigration and Nationality Law Practices Act ("INA"). The
26 Board's allegation suggests that preparing legal documents on behalf of those engaged in self-
27 representation in matters involving immigration is somehow different from preparing legal
28 documents on behalf of those engaging in self-representation in other legal matters, as if A.R.S.
§ 12-2701 and §12-2702 created a subdivision of legal practice over which the Legislature had

1 jurisdiction and over which the Supreme Court's power to regulate the practice of law did not
2 apply.

3 The language of § 12-2701 and §12-2702 makes it clear that practice in the area of
4 immigration law is not open to practice by the general public any more than any other area of
5 law is open to practice by the general public. But did the Legislature intend to make the practice
6 of immigration law a separate entity from the practice of all other types of law, subject to its
7 own rules and procedures? To answer that, it is necessary to understand the history and purpose
8 of the statute at issue. As the Supreme Court has stated, "In construing [a] statute, endeavors
9 should be made to trace the history and legislation on the subject in order to ascertain the
10 consistent purpose of the legislation." *State ex. rel. Larson v. Farley*, 106 Ariz. 119, at 122, 471
11 P.2d 731, at 734. The history behind the INA and § 12-2701 and § 12-2702 is well-
12 documented.

13 During the late 1980's and early 1990's, Arizona was plagued with a rash of frauds
14 committed by individuals acting as "immigration consultants". Many of these individuals were
15 commissioned notaries public who advertised their services using the term "notario", which in
16 civil law countries is synonymous with "attorney". *Notorious Notaries - How Arizona is*
17 *Curbing Notario Fraud in the Immigrant Community*, 32 Ariz. St. L.J. 287, (2000). Immigrants
18 from Latin American countries often hired these consultants under the mistaken belief that they
19 were licensed attorneys.

20 In an effort to combat this wave of fraud, in 1993, the Arizona Legislature passed the
21 Immigration and Nationality Law Practices Act, with the stated purpose to "prevent the
22 unauthorized practice of immigration and nationality law *by nonlawyers who hold themselves*
23 *out as immigration consultants* rendering services in immigration, nationality or citizenship
24 matters." *Id.* (emphasis added).

25 By its own wording, the INA was intended to prevent the unauthorized practice of law
26 by "nonlawyers who hold themselves out as immigration consultants". The statute was aimed
27 at those using the title of "notario" to mislead the public, not at those who otherwise are
28 authorized to provide legal services. The Board's assertion that the definition is somehow

1 intended to prevent certified legal document preparers from practicing in the area of
2 immigration lacks historical foundation.

3 **A. Conflicting statutes**

4 According to the Board, the Legislature intended for the practice of law in immigration
5 matters to be different from the practice of law in any other legal matter. The Board's argument
6 rests solely upon the fact that the specific wording used to define the "practice of law" in Rule
7 31 is not simply plagiarized in the INA definition of "unauthorized practice of immigration and
8 nationality law". Simply stated, if the INA definition of "unauthorized practice" contains no
9 (d)(24) exception for document preparers, this proves that the Legislature intended that certified
10 legal document preparers have no authority in immigration matters. However, the Board's
11 interpretation of the Legislature's intent is at odds not just with history, but with traditional rules
12 of statutory interpretation as well.

13 As the Supreme Court has stated, it is a fundamental rule of statutory construction that
14 "the court may look to prior and contemporaneous statutes in construing the meaning of a
15 statute which is uncertain and on its face susceptible to more than one interpretation. If
16 reasonably practical, a statute should be explained in conjunction with other statutes to the end
17 that they may be harmonious and consistent." *State ex. rel. Larson v. Farley*, 106 Ariz. 119, at
18 122, 471 P.2d 731, at 734.

19 It is reasonably practical in the instant matter to construe § 12-2701 and § 12-2702 in
20 harmony with Rule 31 by simply acknowledging that the INA was passed to deal with the
21 problem of nonlawyers defrauding the public by using the name "notario". Support for this
22 proposition comes from the fact that, whereas the unauthorized practice of law in any other
23 context is purely a civil infraction, § 12-2703 criminalizes violations of the INA. And it is the
24 element of "fraud" present in the practice by "notarios" which elevates the unauthorized
25 practice of law within the INA context to the level of a crime.

26 Taken in the proper historical context, it is clear that the Legislature was not creating a
27 new statute for the purpose of excluding legal document preparers from providing assistance to
28 those representing themselves in immigration matters. The Legislature was dictating that those
who attempt to lure immigrants from civil law countries into retaining them as "immigration

1 consultants” by using the term “notario” are not merely practicing an unauthorized profession,
2 they are committing a crime.

3 The Board’s argument that the definitional statutes of the INA were intended to create a
4 whole new area of law to which the Supreme Court’s definition of practice would not apply
5 lacks historical, constitutional, or even logical support.

6 **B. Statutory construction**

7 It should be further remembered that where statutes claimed to be at odds with one
8 another “relate to the same subject or have the same general purpose – that is, statutes which are
9 in pari material – they should be read in connection with, or should be construed together with
10 other related statutes, as though they constituted one law.” *Id.* It is inescapable that the new
11 INA definitional statutes relate to the same subject matter as Rule 31. It is therefore logically
12 consistent with the Supreme Court’s guidance that they be read together with Rule 31 as though
13 they constituted one law.

14 Furthermore, the Board’s interpretation of the new INA statutes relies on the literal
15 wording of the definition of “unauthorized practice” to argue the Legislature’s intent that the
16 two definitions should be at odds. But the Supreme Court says that this approach is incorrect.
17 “As they must be construed as one system governed by one spirit and policy, the legislative
18 intent therefore must be ascertained not alone from the literal meaning of the wording of the
19 statutes but also from the view of the whole system of related statutes.” *Id.* In the instant
20 matter, in order to construe the legislative intent behind the INA definitional statutes, it is
21 undeniable that the “whole system of related statutes” includes Rule 31.

22 Finally, it must also be remembered that “[t]his rule of construction applies even where
23 the statutes were enacted at different times, and contain no reference one to the other, and it is
24 immaterial that they are found in different chapters of the revised statutes.” *Id.*

25 To read the two INA definitional statutes as creating a new definition of the practice of
26 law creates a disharmony between the INA and Rule 31 by denying certified legal document
27 preparers the authority granted them in ACJA § 7-208 and through the exception in Supreme
28 Court Rule 31(d)(24). In creating disharmony, the Board’s position goes against the direction
of the Supreme Court and therefore fails.

1 **C. Separation of powers, revisited**

2 There exists another flaw in the Board's argument that the conflict in wording between
3 the INA definition of "unauthorized practice of immigration and nationality law" and the Rule
4 31 definition of "practice of law" arises as a result of the intent of the Legislature to make
5 immigration and nationality law a separate subsection of law over which the Supreme Court
6 lacked authority. Such an action would violate the Arizona Constitution.

7 As stated previously, this issue was settled more than thirty years ago, when the
8 Supreme Court stated, "[t]he determination of who shall practice law in Arizona and under what
9 condition is a function placed *by the state constitution* in this court." *Hunt v. Maricopa county*
10 *Employees Merit System; et. al.*, 127 Ariz. 259, at 261, 619 P.2d 1036, at 1038 (1980).
11 (emphasis added) And since Article 3 of the Arizona Constitution admonishes that "no one of
12 such departments shall exercise the powers properly belonging to either of the others," to the
13 extent that the Legislature attempted to circumvent the requirements of the constitution by
14 enacting the INA and § 12-2701 and § 12-2702, the statute can not pass constitutional muster,
15 because "[t]he legislature may not enact a statute which is in conflict with a provision of the
16 Constitution." *Harris v. Maehling*, 112 Ariz. 590, at 591, 545 P.2d 47, at 48 (1976). The
17 practice of law simply cannot be regulated by the Legislature. Any attempt to create an area of
18 law over which the Supreme Court lacks authority to determine who may practice law and
19 under what conditions is unconstitutional and void.

20 It is, after all, undeniable that in order to accuse Ms. Morales of engaging in the
21 unauthorized practice of law, the Board is bound by the admission that the conduct it alleges
22 constitutes the practice of law, which "is a matter *exclusively* within the authority of the
23 Judiciary." *Hunt v. Maricopa county Employees Merit System; et. al.*, 127 Ariz. 259, at 261, 619
24 P.2d 1036, at 1038 (1980) (emphasis added).

25 Therefore, the definition of practice of law provided in Rule 31 is the *only* definition.
26 The exemption listed in Rule 31(d)(24), specifically states that "*Nothing* in these rules shall
27 prohibit a certified legal document preparer from performing services in compliance with
28 Arizona Code of Judicial Administration, Part 7, Chapter 2, Section 7-208." (emphasis added)

1 And § 7-208 specifically authorizes Legal Document Preparers to "Prepare or provide legal
2 documents ... *in any legal matter*."

3 Therefore, to the extent that immigration and nationality law services constitute the
4 practice of "immigration and nationality law", these services must be provided either by an
5 attorney, or by an individual or entity that has been granted an exception from the prohibition
6 against the unauthorized practice of law as defined in Rule 31. Notaries public do not have such
7 an exception. Certified legal document preparers do. The assistance of CLDPs in preparing
8 these immigration applications is therefore privileged under Rule 31.

9 **III. Definitional Statutes**

10 In the instant matter, the Board alleges that Ms. Morales violated § 12-2701 and § 12-
11 2702 of the INA. INA § 12-2701 is titled "Definitions". INA § 12-2702 is titled
12 "Representation; definition".

13 The Board claims that Ms. Morales has engaged in conduct that violates the definition of
14 "unauthorized practice of immigration and nationality law", as that term is used within the INA.
15 As the Court is aware, the definition of "unauthorized practice of immigration and nationality
16 law" provided in § 12-2701 applies only to those statutes *within the INA itself* that use that term.
17 There is only one - § 12-2703. So, in order for Ms. Morales to engage in conduct in violation of
18 that definition, she must violate that term as it used in § 12-2703. But the Board makes no
19 allegation that Ms. Morales has violated that statute, and by themselves, § 12-2701 and § 12-
20 2702 contain no prohibitions regarding conduct. They simply define terms used elsewhere. To
21 the extent that the complaint alleges a violation of either § 12-2701 or § 12-2702 or both, there
22 is simply nothing to refute.

23 **IV. Jurisdiction**

24 While jurisdictional arguments typically appear as foundational arguments, in this
25 matter, the jurisdictional arguments required substantial contextual background. Hence they
26 appear at the end of the instant motion.

27 There exist two separate and distinct bases for contesting jurisdiction in this matter: the
28 Board's lack of subject matter jurisdiction in general and the exclusive reservation of subject
matter jurisdiction to another agency.

1 **A. The Board's Subject Matter Jurisdiction**

2 As previously noted, to the extent that the Board alleges violations of § 12-2701 and §
3 12-2702, there is simply nothing to refute. However, if the Board were inclined to argue that
4 the allegation that Ms. Morales violated § 12-2701 and § 12-2702 should lead to the *implication*
5 that she violated § 12-2703, and that Ms. Morales should therefore stand accused of violating
6 that statute as well, then the Board deprives itself of authority to act in conjunction with the
7 allegation.

8 It is not subject to dispute that the Board has administrative oversight of the licensure
9 process for legal document preparers. But the authority of the Board is strictly limited to the
10 enumerated powers in its enabling statute, the Arizona Code of Judicial Administration
11 ("ACJA"), § 7-208. And § 7-208 contains no statutory provision giving it subject matter
12 jurisdiction over any alleged violation of the INA. Why? Because as § 12-2703(e) points out,
13 "A person who violates this chapter is guilty of a class 6 felony." By its own wording, the INA
14 is a *criminal* statute, intended to prevent the unauthorized practice of law by "nonlawyers who
15 hold themselves out as immigration consultants". The statute was aimed at criminals using the
16 title of "notario" to mislead the public, not at those who otherwise are authorized to provide
17 legal services. Violations of the INA are criminal, rather than civil or administrative, matters.

18 Enforcement of the law in general, and the INA in this particular instance, is a function
19 of the Executive branch of government, reserved in the Arizona Constitution to the office of the
20 Governor through the various law enforcement agencies of the State. Nowhere in the ACJA is
21 the Board, or any other administrative agency for that matter, given the power to prosecute
22 alleged violations of the Arizona Revised Statutes.

23 Therefore, even if the Complaint is somehow interpreted to allege a violation of § 12-
24 2703, which it explicitly does not do, the Board nonetheless lacks any authority to prosecute the
25 matter because it lacks subject matter jurisdiction over alleged criminal violations.

26 **B. Enforcement Authority of § 12-2703**

27 Even if the Court were to somehow believe that the Board had authority to pursue
28 criminal matters in general, the Board would nonetheless lack jurisdiction over the instant

1 criminal matter, because as A.R.S. § 12-2703(C) clearly indicates, "The attorney general shall
2 institute appropriate proceedings to prevent or to stop violations of this chapter."

3 It could not be clearer that alleged violations of the INA are under the *exclusive*
4 jurisdiction of the Attorney General.

5 The Board suggests that it has personal jurisdiction over Ms. Morales because she has a
6 license over which the Board has authority. This is true. The Board then suggests that it may
7 derive subject matter jurisdiction over the instant allegations by virtue of the potential impact of
8 the instant allegations on Ms. Morales's license. This is not true. The Board can not usurp INA
9 enforcement authority from the Attorney General on the basis that Ms. Morales has a license
10 over which the Board has jurisdiction. If that were the case, the MVD would have authority to
11 enforce violations of the INA as well, as long as the alleged violator were licensed to drive.
12 And the State Board of Nursing would have authority to enforce the provisions of the INA as
13 long as the alleged violator had an active nursing license.

14 The Attorney General was granted exclusive authority to enforce alleged violations of
15 the INA. Since the instant complaint was not initiated by the Attorney General, it must be
16 dismissed, immediately and with prejudice.

17 **1. The punishment problem**

18 Even if the Board were to somehow try to undertake a prosecution of § 12-2703 (which
19 the Court will remember has not been alleged), any such attempt would be a course fraught with
20 peril.

21 To begin with, the penalties provided for a violation of § 12-2703(C) are set out in § 12-
22 2703(E): "A person who violates this chapter is guilty of a class 6 felony." Assuming the
23 instant violation of the INA to be a first offense, the penalties for a class 6 felony are found in
24 A.R.S. § 13-702. Assuming at least two mitigating factors listed in § 13-701(E) are present, the
25 mitigated term of .33 years in the Arizona Department of Corrections ("ADOC") would be
26 available to Ms. Morales. The presumptive penalty would be 1 year in ADOC, and if the Court
27 were to find beyond a reasonable doubt that at least two of the aggravating factors found in
28 A.R.S. § 13-701(D) were present, the maximum sentence of 2 years would be possible.

1 Obviously, since the Board has no authority to impose a term of imprisonment, the
2 penalties prescribed in § 12-2703 can not be imposed. It would be equally silly to discuss the
3 potential terms of probation and community service, since these are equally beyond the Board's
4 authority.

5 Therefore, even if the Board were to somehow exert authority to pursue the instant
6 allegations, it would be illogical to do so, since the penalties prescribed by law for felony
7 offenses are beyond the authority of the Board to impose, and the penalties the Board intends to
8 impose are statutorily unavailable as penalties for criminal violations.

9 It makes no sense to pursue allegations when there exists no avenue to the Board to
10 impose any sanctions in conjunction with any finding of wrongdoing.

11 **2. The burden of proof and other issues**

12 In the same vein, an attempt to pursue criminal allegations within a civil or
13 administrative context raises yet another set of issues involving the differences between the
14 criminal and administrative systems. What would be the appropriate burden of proof? Would
15 Ms. Morales be allowed to exert her privilege against self-incrimination under the Fifth
16 Amendment and refuse to testify? Should Ms. Morales have been provided with counsel
17 pursuant to the Sixth Amendment? Can Ms. Morales's statements made to the Board's
18 investigator be suppressed as an unlawful confession, given that she is obligated to cooperate
19 with the Board's investigation? Should Ms. Morales be guaranteed the right to a speedy trial,
20 with time constraints appropriate under Rule 8 of the Arizona Rules of Criminal Procedure?
21 Should any hearing in this matter be conducted pursuant to those rules as well?

22 All of these are fair questions considering that § 12-2703 is a criminal statute outlining
23 criminal conduct.

24 **C. Summary**

25 The statutes upon which the Board bases its allegations against Ms. Morales are merely
26 definitional in nature and by themselves contain no proscriptions against any conduct, leaving
27 Ms. Morales with nothing against which she must defend. And to the extent that these statutes
28 imply a violation of § 12-2703, such an allegation is improper. The INA is a criminal statute,
and not only does the Board lack authority to prosecute criminal violations in general, the

1 criminal violations enumerated in § 12-2703 are under the exclusive authority of the Attorney
2 General.

3 In addition, it is impossible to prosecute this criminal statute within a civil or
4 administrative proceeding since the penalties prescribed for violations of criminal statutes are
5 beyond the authority of the Board to implement, and the punishments the Board would
6 otherwise impose are not available to criminal defendants.

7 CONCLUSION

8 Because applications prepared in the area of immigration and nationality law are
9 intended to secure the rights of individuals, they are by definition legal documents. Certified
10 Legal Document Preparers have the authority to prepare or provide those documents in
11 conjunction with immigration (and *any* other) matters.


12 Ms. Morales admits that she has prepared documents on behalf of individuals who were
13 engaged in self-representation before the United States Citizenship and Immigration Service. In
14 so doing, Ms. Morales acted at all times entirely within the scope of the "Authorized Services"
15 outlined in ACJA § 7-208(F), conduct which is specifically exempted from the definition of the
16 practice of law. For these reasons, (and many others), there exists no cause for disciplinary
17 action.

18 This matter must be dismissed - with prejudice.
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FILED

MAY 09 2011

Kevin O. Torrey, SBN# 022300
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(602) 955-0139

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA
BY 

BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF CERTIFIED
LEGAL DOCUMENT PREPARERS:

No. LDP-NFC-08-L008

KARINA MORALES,
Certificate Number 80255,

FACTUAL STIPULATION

And ...

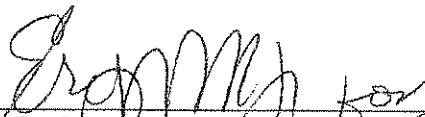
Honorable William J. O'Neil

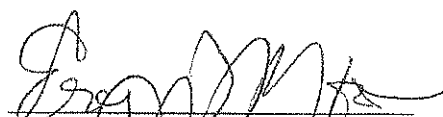
Servicios Hispanos,
Certificate Number 80256.

On May 4, 2011, the Court conducted a telephonic conference with the parties. The parties agreed that the instant matter presented no legitimate dispute regarding the material underlying facts. Therefore, the parties agreed to present to the Court a set of stipulated facts. Based upon the proposal, the Court vacated the previously-scheduled hearing date of May 9, 2011.

The parties hereby present the proposed stipulation for the Court's consideration in making its determination in the instant matter.

RESPECTFULLY SUBMITTED this 9th day of May, 2011.


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STIPULATION OF FACTS

1. In January 2003, the Supreme Court of Arizona, by administrative order, adopted a new section of the Arizona Code of Judicial Administration ("ACJA"), Section 7-208, which established the Legal Document Preparer Program.
2. The Board of Legal Document Preparers was created pursuant to ACJA, § 7-201 for the purpose of overseeing the Legal Document Preparer Program.
3. On January 16, 2003, the Supreme Court of Arizona issued Administrative Order No. 2003-14, which created an exemption to the definition of the "practice of law" under Rule 31 for certified legal document preparers, which later became Rule 31(d)(24).
4. Karina Morales is a Certified Legal Document Preparer, Certificate Number 80255, granted July 1, 2003.
5. Karina Morales is the owner and operator of Servicios Hispanos, an Arizona Limited Liability Company, which is also a Certified Legal Document Preparer, Certificate Number 80256, granted July 1, 2003.
6. Since initial certification, the certifications of both Ms. Morales and Servicios Hispanos have been renewed without interruption.
7. The certifications of both Ms. Morales and Servicios Hispanos are currently in good standing and are valid through June 30, 2011.
8. Ms. Morales and Servicios Hispanos prepare applications on behalf of individuals who are representing themselves in matters before the United States Immigration and Citizenship Service.
9. On February 26, 2008, the Board of Legal Document Preparers ("Board") received a complaint from Barbara Morejon involving Ms. Morales and Servicios Hispanos.
10. On February 18, 2011, the Board issued a Notice of Formal Statement of Charges and Right to Hearing, alleging that Ms. Morales and Servicios Hispanos violated Title 12, Chapter 18, Arizona Revised Statutes, the Immigration and Nationality Law Practice Act, and ACJA § 7-201(F)(1), 7-208(F)(2), 7-208(J)(5)(a), by advertising and providing

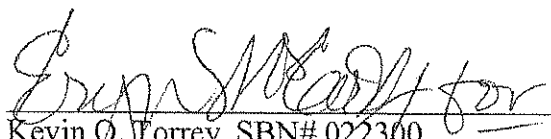
1 immigration services without being qualified by law to do so; constituting grounds for
2 discipline pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3).


3 11. On March 8, 2011, Ms. Morales and Servicios Hispanos filed their Answer and
4 requested a hearing.

5 12. The Board has authority to hear this complaint, pursuant to the Arizona Code of
6 Judicial Administration, § 7-201(D)(5).

7 13. The Board has personal jurisdiction over Ms. Morales in her individual capacity as
8 a Certified Legal Document Preparer.

9 RESPECTFULLY SUBMITTED this 9th day of May, 2011.

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OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

MAY 12 2011

BY

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12 Attorneys for the Legal
13 Document Preparer Program

14 **BEFORE THE PRESIDING DISCIPLINARY JUDGE**
15 **OF THE SUPREME COURT OF ARIZONA**

16 IN THE MATTER OF CERTIFIED LEGAL
17 DOCUMENT PREPARERS:

No. LDP-NFC-08-L008

18 **KARINA MORALES,**
19 Certificate Number 80255

20 And

21 **SERVICIOS HISPANOS**
22 Certificate Number 80256.

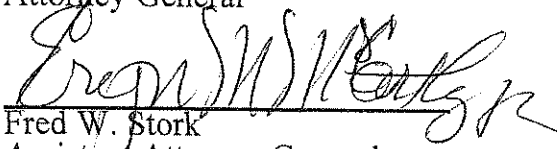
RESPONSE TO MOTION TO DISMISS

(Assigned to Hon. William J. O'Neil,
Presiding Disciplinary Judge)

23 The Legal Document Preparer Program (the "Program"), for the reasons stated in the
24 attached Memorandum, respectfully requests that the Certificate Holders' Motion to
25 Dismiss be denied.

26 RESPECTFULLY SUBMITTED this 12th day of May, 2011.

THOMAS C. HORNE
Attorney General


Fred W. Stork
Assistant Attorney General

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1 In 2003, the Supreme Court amended Rule 31 and promulgated the Arizona Code of
2 Judicial Administration ("ACJA") which, pertinent to this matter, authorized individuals and
3 business entities that obtained certification from the Board of Legal Document Preparers to
4 engage in the limited practice of law in Arizona as certified legal document preparers.
5

6 ARGUMENT

7 **1. Certificate Holders violated the ACJA by failing to meet the specific**
8 **qualifications required to prepare immigration and naturalization documents**
9 **under A.R.S. §12-2702(A)(1-5).**

10 In this case, Certificate Holders have been charged by the Board of Legal Document
11 preparers with violating the Code of Conduct, ACJA §2-708(J)(5)(a) because they do not
12 meet the qualifications under A.R.S. §12-2702(A)(1-5) to prepare legal documents relating
13 to immigration and naturalization matters. They have not been charged with the
14 unauthorized practice of law or for exceeding their authority as certified legal document
15 preparers. Specifically, A.R.S. §12-2702(A)(1-5) sets out the requirements for which an
16 individual/entity must qualify in order to "represent" persons in immigration and
17 naturalization matters, including the preparation of legal documents. Certificate Holders do
18 not meet any of the qualifications listed – regardless of whether they are certified legal
19 document preparers under the ACJA or not. Certificate Holders make no argument in
20 their Motion to Dismiss that they do meet those qualifications. Rather, they simply assert
21 that because they are certified under the ACJA to prepare legal documents generally, they
22 cannot be disciplined for violating the Code of Conduct under ACJA §7-208(J)(5)(a) for
23 preparing legal documents under the INA. Their arguments are misguided.
24
25
26

1 The INA and the ACJA must and can be read in harmony. *See Weitekamp v.*
2 *Fireman's Fund Insurance Co.*, 147 Ariz. 274, 275-276, 709 P.2d 908, 909-910 (App.
3 1985). Longstanding principles of statutory interpretation dictate that when a specific
4 provision of law (i.e, INA's that only individuals who meet certain qualifications may
5 prepare legal documents concerning immigration and nationality matters) conflicts with a
6 general provision of law (Rule 31 and the ACJAs grant of authority to certified legal
7 document preparers that they can prepare legal documents), the specific provision controls
8 over the general provision. *See e.g., Desert Waters Inc. v. Superior Court*, 91 Ariz. 163,
9 171, 370 P.2d 652-658 (1962). In this case, while the ACJA permits Certificate Holders to
10 generally prepare legal documents, that authority must be taken into context by the specific
11 provisions of the INA that place enumerated qualifications on those who prepare
12 immigration and naturalization legal documents. Again, Certificate Holders do not meet
13 those qualifications.
14

15
16
17 **2. This matter may not be dismissed based on an assertion that an underlying**
18 **statute is unconstitutional.**

19 Certificate Holders request that the present disciplinary action be dismissed for the
20 reason that the INA violates the Separation of Powers Doctrine embodied in Article 3 of the
21 Arizona Constitution. As a result, they contend that they, as certificated legal document
22 preparers, cannot violate the INA, and accordingly, should not be subject to discipline by
23 the Board. They are wrong.
24
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26

1 When deciding whether Certificate Holders are subject to disciplinary action under
2 the ACJA for violating the INA, neither the Office of the Disciplinary Judge nor the Board
3 of Legal Document Preparers has judicial or other authority to decide whether the INA
4 violates the Separation of Powers Doctrine in Article 3 of the Arizona Constitution and if so,
5 dismiss the disciplinary matter. Certificate Holders make no credible argument to the
6 contrary.
7

8 ACJA §7-201(D)(5)(c)(1)(g) provides that the Board of Legal Document Preparers
9 shall:
10

11 Make all final decisions regarding alleged acts of misconduct or
12 violations of the statutes, court rules, or applicable sections of
13 the ACJA by applicants, certificate holders or non-certificate
14 holders pursuant to subsections (H)(24) and (H)(25). The board
15 has the final decision on the disposition of a complaint and may
16 take any action pursuant to subsection (H) (24), regardless of the
17 recommendations of the division director or hearing officer.

18 When considering and deciding whether a certificate holder has violated a stated
19 provision of law, which in turn, is a violation of ACJA §7-208(J)(1)(a)(6), the Board's
20 authority is limited to determining whether a certificate holder has engaged in conduct that
21 has violated a statute or other provision of law [ACJA §7-201(H)(24)]. The Board's
22 authority is not extended to determining the constitutionality of the statute that a certificate
23 holder allegedly has violated. The determination of the constitutionality of a statute that a
24 certificate holder is charged with violating is reserved to the courts under their exercise of
25 the judicial power of the State. In this case, unless and until the INA provisions at issue in
26 this case are deemed unconstitutional by a court, discipline in this matter is within the

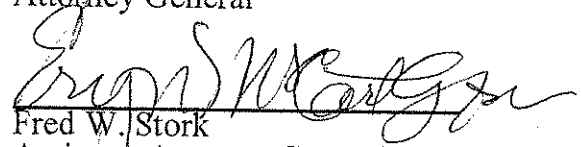
1 purview the Board's grant of authority. Likewise, the function of a hearing officer assigned
2 by the Office of the Disciplinary Judge is to make a recommendation to the Board after
3 conducting a hearing. The recommendation is based "exclusively on the matters officially
4 noticed and the evidence [on those matters] presented." ACJA §7-201(H)(22)(b).
5 Accordingly, There is no authority for the assigned hearing officer to dismiss a disciplinary
6 matter based on the alleged unconstitutionality of an underlying statute.
7

8 CONCLUSION

9 For the reasons set forth above, Certificate Holders' motion to dismiss should be
10 denied.
11

12 RESPECTULLY SUBMITTED this 12th day of May, 2011.

13 THOMAS C. HORNE
14 Attorney General

15 
16 Fred W. Stork
17 Assistant Attorney General

18 **ORIGINAL** filed this 12th
19 day of May, 2011, with:


20 Disciplinary Clerk
21 Office of Presiding Disciplinary Judge
22 State Courts Building
23 1501 West Washington, Suite 102
24 Phoenix, Arizona 85007-3231

25 **COPY** hand-delivered this
26 12th day of May, 2011 to:

Hon. William J. O'Neil
Presiding Disciplinary Judge
1501 West Washington
Phoenix, Arizona 85007-3231

1 **COPY** mailed this 12th
2 day of May, 2011 to:

3 Kevin O. Torrey
4 The Law Office of Kevin O. Torrey, PLLC
5 3221 N. 24th Street
6 Phoenix, AZ 85016
7 Attorney for Karina Morales and
8 Servicios Hispanos

9 
10 Assistant to Fred W. Stork

11 PHX-#1851162
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FILED

JUN 9 2011

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DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA
BY _____

BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF CERTIFIED LEGAL
DOCUMENT PREPARERS:

No. LDP-NFC-08-L008

KARINA MORALES,
Certificate Number 80255,

DEFENDANT'S MOTION TO
RECONSIDER

And

Servicios Hispanos,
Certificate Number 80256.

Honorable William J. O'Neil

Respondent herein, by and through undersigned counsel, hereby moves the Court to reconsider the recommendations made in the decision rendered May 26, 2011 in this matter. The Court's recommendation made reference to a statute previously un-cited by either party, and Respondent would like an opportunity to provide a more thorough statutory framework against which the Court can weigh its decision.

In light of the Court's recommendation, it must be reiterated that Respondent is *only charged in the instant Complaint with violations of Arizona Revised Statutes*. These two statutes are mere definitions and Respondent could not have violated them in any way. The only Arizona law Respondent is charged with violating is a *criminal* statute, the enforcement of which is expressly reserved to the Office of the Attorney General of Arizona. The Board has no jurisdiction to enforce *any* criminal statute, especially one that is expressly reserved to another agency. The Board is grossly overreaching its authority.

The Board is bound by the allegations in the Complaint, and since the complaint only alleges a violation of Arizona Statute, the Court need look no further than Arizona law to conclude that Respondent did not violate the provisions with which she is charged, and even if

1 she had, the Board has no authority to pursue such a claim. The Complaint should be dismissed
2 on that basis alone. And it seems that the Court did not dispute the analysis thus far.

3 However, the Court thereafter stated that the "overarching reason" for its ultimate
4 decision is that "Immigration and Naturalization are federal law issues." The Court then
5 correctly concludes that "Federal law preempts this area of endeavor practiced by Respondents"
6 However, the Court has misinterpreted Respondent's argument relating thereto. Respondent is
7 not claiming that the allegations against her fail because the Arizona Supreme Court's authority
8 in any way "trumps" the authority of the federal government - quite the opposite.

9 Respondent was actually focusing on a separate aspect of the preemption argument:
10 because practice before the USCIS is regulated by Title 8 of the Code of Federal Regulations,
11 the issue of whether or not the "endeavor *practiced* by Respondents" actually constitutes
12 "practice" as defined in 8 CFR § 1001.1 is a question of federal law, and is thus exclusively
13 within the jurisdiction of the USCIS to determine. So once again, the Board simply lacks
14 jurisdiction over any such claim. And it is important to remember that the Complaint makes no
15 such allegation in the first place.

16 In pointing out that the Arizona Supreme Court has granted document preparers the
17 authority to prepare legal documents in any legal matter, Respondent is simply saying that
18 within the "State of Arizona" context, Respondent's conduct falls firmly within the authority
19 granted pursuant to ACJA § 7-208, because no provision of Arizona law declares
20 "Immigration" matters to be outside of the authority of CLDPs. The burden of persuasion to
21 show that it is restricted falls upon the Board.

22 However, the courts of the State of Arizona are not the only courts that have recognized
23 the authority granted to CLDPs. The United States Bankruptcy Courts within Arizona have
24 *formally* recognized the authority of certified legal document preparers to prepare documents
25 for those representing themselves in bankruptcy matters, both Chapter 7 and Chapter 13. The
26 Board could not, therefore, make its own finding that the actions of CLDPs who prepare
27 bankruptcy petitions for filing in bankruptcy court are acting in violation of the rules of practice
28 for the bankruptcy court and on that basis seek to take action against their licenses, since the
federal court with jurisdiction over the matter has approved of the practice.

1 Likewise, it is exclusively within the discretion of the USCIS to determine whether it
2 will recognize the authority of certified legal document preparers to prepare applications on
3 behalf of those representing themselves in immigration issues. Simply because the USCIS has
4 not *formally* rendered an opinion on the matter does mean that the matter is open to enforcement
5 by state agencies.

6 In fact, each and every document prepared by Respondent is designated so. Pursuant to
7 Board policy, Respondent places her document preparers identification number on every
8 document she prepares for her immigration clients. She signs each document as well. There is
9 no question that for the last 9 years, the USCIS are aware that the Respondent prepares USCIS
10 applications for those representing themselves. In the last 9 years, not a single application has
11 ever been rejected by USCIS, whether prepared by the Respondent or by any of the dozens of
12 other document preparers who also perform such services.

13 No, the USCIS has never produced an official position formally approving of the work
14 done by Respondent, but why should it? It is clear from the context that the USCIS courts do
15 not see the practice of document preparers as a violation of its rules of practice. If it did, it
16 would reject any of the hundreds of applications Respondent has prepared over the years. It
17 hasn't rejected a single one. The USCIS courts have made their position known. And the
18 Board has no authority to step into federal jurisdiction and overrule the practice of the actual
19 courts to whom the rules at issue apply.

20 In fact, it must be noted that in the State of California, the USCIS formally recognizes
21 "immigration consultants," non-attorneys who are certified by the State to prepare immigration
22 applications (the authority for which would, in itself, otherwise be questionable). It thus seems
23 clear that the USCIS has formally declared that the actions of non-lawyers preparing legal
24 documents for those appearing on their own behalf before the USCIS does not violate its
25 standards of conduct.

26 The USCIS is a federal agency. Its regulations apply in all states uniformly.

27 All speculation aside, however, what is certain is that if and when the time comes to rule
28 upon the practices of CLDPs, only the USCIS has the authority to rule on the practice in its
courtrooms. Therefore, if the preparation of immigration application is openly allowed by

1 USCIS, the Board has no authority to substitute its own judgment regarding whether the
2 practice violated USCIS rule of procedure. The federal agency with authority to make that
3 determination has already spoken. The Board must defer to USCIS's judgment.

4 If the Board continues to attempt to enforce § 12-2701, -2702, and by extension, § 12-
5 2703, the Board could find itself the subject of a Superior Court injunction regarding its
6 enforcement authority and a separate civil lawsuit for violation of the respondent's rights under
7 the Arizona Rules of Criminal Procedure. More importantly, if the Board is seeking to charge
8 the Respondent with a class 6 felony, then the Respondent is officially a Defendant, and the
9 Defendant has been deprived of her 5th Amendment right to remain silent and her 6th
10 Amendment right to legal counsel. Her statement constitute a violation of her Miranda Rights,
11 and she has been denied numerous procedural rights for which the Board will be held
12 accountable.

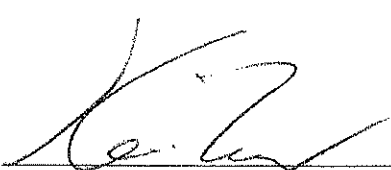
13 Frankly, the Board is going to look pretty silly before the Arizona Superior Court,
14 attempting to explain how the Defendant's actions in preparing legal documents allowed the
15 Board to act as a law enforcement agency.

16 If the Board continues to attempt to regulate practice before Immigration courts in
17 Arizona, the Board could find itself the subject of a federal injunction as well.

18 The Board has simply exceeded the oversight authority provided to it in ACJA§ 7-201
19 and § 7-208. The Court should recognize this and admonish the board to discontinue its efforts
20 in this case.

21 This Motion is supported by the accompanying Memorandum of Points and Authorities
22 and all the pleadings of record in this matter, which are incorporated herein by this reference.

23 RESPECTFULLY SUBMITTED this 8th day of June, 2011.

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The Law Office of Kevin O. Torrey, PLLC
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **BACKGROUND FACTS**

3 The parties have previously stipulated to the underlying factual basis in this matter.

4 **LEGAL ARGUMENT**

5 **I. Issues of Federal Immigration Law**

6 To the extent that the Court believes the actions of the Respondent conflict with 8 CFR §
7 292.1 (1999), it must be remembered that the instant Complaint makes no allegation that
8 Respondent has engaged in "Representation" of any kind. To the extent that the Court believes
9 that Respondent's conduct conflicts with that statute, it must be remembered that representation
10 itself is limited to a specific definition within Title 8 of the Code of Federal Regulations,
11 "Aliens and Nationality," which provides the statutory framework for matters involving
12 immigration and naturalization.

13 8 CFR § 2.1 states that "All authorities and functions of the Department of Homeland
14 Security to administer and enforce the immigration laws are vested in the Secretary of
15 Homeland Security."

16 8 CFR § 3.0 declares that "Regulations of the Executive Office for Immigration review
17 relating to the adjudication of immigration matters before immigration judges ... are located in
18 8 CFR chapter V, part 1003."

19 8 CFR § 1001.1 provides the specific definition of "representation" as it is used
20 throughout Title 8, and specifically within chapter V, part 1003. 8 CFR § 1001.1(m) provides
21 that "The term representation before the Board and the Service includes practice and preparation
22 as defined in paragraphs (i) and (k) of this section." 8 CFR § 1001.1(i) provides the definition
23 of "practice" as it is used in that section, while 8 CFR § 1001.1(k) provides the definition of the
24 term "preparation" as it pertains to the definition of "practice".

25 These statutes are the definitional foundations for the regulation found in part 1292 of
26 Title 8 "Representation and Appearances." Specifically, 8 CFR § 1292.1 "Representation of
27 others" articulates the circumstances under which one would be considered to have engaged in
28 representation, a definition which mirrors that of § 292.1 previously cited.

1 However, the issue is not whether the Court or the Board believes that Respondent's
2 conduct falls within the prescribed conduct, the question is who has the authority to make that
3 determination. And as 8 CFR § 2.1 above answered very clearly, the Secretary of Homeland
4 Security is charged with the enforcement of Immigration law.

5 The Court is completely correct that federal law preempts any attempted state action to
6 codify immigration matters. But federal enforcement authority likewise usurps from the states
7 the authority to individually, in a state-by-state and even in a person-by-person- manner,
8 regulate practice before federal immigrations courts. Any attempt by the Board to do so not only
9 infringes upon the authority of the Secretary of Homeland Security, but it also raises issues of
10 equal protection under the law, since practice before the USCIS by non-lawyers is openly
11 encouraged in California, but is being openly attacked in Arizona. This is fundamentally
12 wrong.

13 Both of the avenues that the Board seeks to use to expand its authority beyond the reach
14 of ACJA § 7-201 and § 7-208 are expressly denied it. In the case of the Arizona Statutes,
15 enforcement authority is clearly given to the Attorney General.

16 In the case of the Title 8 allegations, only the USCIS immigration courts are in any
17 position to determine who is or is not in violation of its own rules regarding representation,
18 practice, and appearance. The Superior Court of Arizona would never tolerate an Arizona
19 Justice Court ruling that certain individuals were in violation of the rules of civil procedure in
20 matters before the Superior Court, why would the federal courts tolerate a state's determination
21 that certain conduct violated USCIS's standards of practice, especially in matters where the
22 issue was never raised before USCIS?

23 The Court should reconsider the implications of the Board's attempt to infringe upon the
24 authority of a federal agency charged with enforcement of its own regulations.

25 Respondent respectfully requests that the Court reverse its recommendation in light of
26 the above statutory citations.

27 ...

28 ...

1 RESPECTFULLY SUBMITTED this 9th day of June, 2011.

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FILED

JUN 30 2011

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA
BY 

**BEFORE THE SUPREME COURT OF ARIZONA
LEGAL DOCUMENT PREPARER BOARD**

IN THE MATTER OF A CERTIFIED LEGAL
DOCUMENT PREPARERS:

KARINA MORALES,
Certificate Number 80255

SERVICOS HISPANOS
Certificate Number 80256

No. LDP-NFC-08-L008

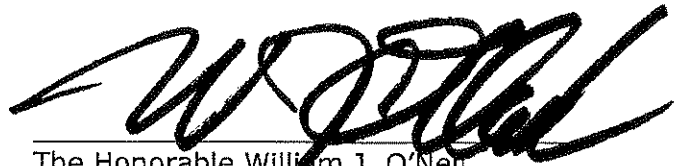
**ORDER RE RULING ON MOTION
FOR CONSIDERATION FILED
JUNE 9, 2011**

[Hearing Officer, Judge William J.
O'Neil]

The Respondents Karina Morales and Servicios Hispanos having filed Defendant's Motion to Reconsider on June 9, 2011, the Legal Document Preparer Program having filed a Response on June 16, 2011 and the Hearing Officer having reviewed the submitted pleadings,

IT IS HEREBY ORDERED the motion to reconsider is denied.

DATED this 30 day of June, 2011.


The Honorable William J. O'Neil
Office of the Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk
this 30 day of June, 2011.

COPY of the foregoing mailed
this 30 day of June, 2011, to:

Cost Statement
Karina Morales and Servicios Hispanos - Complaint Number 08-L008

STAFF COSTS	\$746.99
CERTIFIED MAIL	\$4.34
TOTAL	<u>\$751.33</u>

*Costs as of July 5, 2011

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

2) REVIEW OF PENDING COMPLAINTS

2-C: *Review, discussion and possible action regarding the Honorable Jonathan Schwartz' Report and Recommendation in complaint number 11-L001 involving Julie Star.*

On June 15, 2011, Judge Schwartz filed the attached Hearing Officer's Report and Recommendation in the formal disciplinary action in complaint number 11-L001. Judge Schwartz report reflect his determinations Star did engage in the alleged misconduct as charged pertaining to Allegations 1, 2, 3, 4 and 5. Judge Schwartz determined Star did not commit the alleged misconduct as charged in Allegation 6. Judge Schwartz recommends the proposed disciplinary sanctions be ordered. Therefore, it is recommended the Board take the following actions:

1. Adopt the Findings of Fact contained in Judge Schwartz' Hearing Officer's Report and Recommendation filed on June 15, 2011;
2. Adopt the Conclusions of Law contained in Judge Schwartz' Hearing Officer's Report and Recommendation filed on June 15, 2011;
3. Dismiss Allegation 6 of complaint number 11-L001;
4. Regarding Allegation 1, enter a finding Star violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), and ACJA § 7-208(J)(3)(c)(1) by improperly categorizing and charging a document preparation services fee for informal probate documents based on what she determined to be an amount equal to 5% of the value of Martha Gowens' ("Gowens") estate; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(3) and (H)(6)(k)(7);
5. Regarding Allegation 2, enter a finding Star violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(1)(a), (J)(1)(b), (J)(1)(d) and (J)(2)(c) by engaging in a conflict of interest by preparing documents pertaining to the sale of Gowens' residential property enabling her husband, John Star, to purchase the property; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(g), (H)(6)(k)(3), and (H)(6)(k)(7);
6. Regarding Allegation 3, enter a finding Star violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(1)(a), (J)(1)(d), (J)(5)(a) and ARS § 41-311(1), § 41-311(6), § 41-311(10) when she notarized a Limited Power of Attorney she prepared for Gowens dated June 24, 2010 under a Clark County, Nevada caption which avowed Gowens "personally appeared" before Star and signed the document when Gowens was residing with family

members in Nevada; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(g), (H)(6)(k)(3), and (H)(6)(k)(7);

7. Regarding Allegation 4, enter a finding Star violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(1)(a), (J)(1)(d), (J)(5)(a) and ARS § 41-311(1), § 41-311(6), § 41-311(10) when she notarized Gowens' signature on a Property Agreement Star prepared dated June 28, 2010 which subscribed and swore Gowens "personally appeared" before Star when Gowens was residing with family members in Nevada; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(g), (H)(6)(k)(3), and (H)(6)(k)(7);
8. Regarding Allegation 5, enter a finding Star violated ACJA § 7-201(F)(1), ACJA § 7-208(F)(2), (J)(1)(d), (J)(5)(a) and Superior Court in Maricopa County Local Rule 2.15 when she prepared informal probate documents for Gowens' daughters, Joyce Adams of Henderson, Nevada and Patricia Westwood of Surprise, Arizona, identifying Star's address as the mailing address for the pro per litigants captions; constituting grounds for discipline pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3);
9. Revoke Star's legal document preparer certification, certificate number 80294, pursuant to ACJA § 7-201(H)(24)(a)(6)(i), pursuant to ACJA § 7-201(H)(24)(a)(6)(a);
10. Issue a cease and desist order enjoining Star from preparing legal documents, representing herself to the public as a certified legal document preparer, or conducting any activity that constitutes the unauthorized practice of law until such time as any and all conditions for reinstatement are met in full, as determined by the Board, pursuant to ACJA § 7-201(H)(24)(a)(6)(g);
11. Order and mandate as a condition for reinstatement, Star participate in no less than ten (10) hours of continuing education in the curriculum areas of professional responsibility and ethics, in addition to the hours of continuing education required for renewal of certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);
12. Assess costs associated with the investigation and related disciplinary proceedings in the amount of \$4,230.61, to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j);
13. Impose a civil penalty in the amount of \$250.00 per found violation in the total amount of \$1,500.00 to be remitted no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k); and,
14. Authorize the Chair to sign the Final Order on behalf of the full Board.

FILED

JUN 15 2011

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA

**BEFORE THE ARIZONA SUPREME COURT
BOARD OF LEGAL DOCUMENT PREPARERS**

IN THE MATTER CERTIFIED LEGAL
DOCUMENT PREPARER:

JULIE STAR,
Certificate Number 80924.

No. LDP-NFC-11-L001

**HEARING OFFICER'S REPORT AND
RECOMMENDATION**

[Hon. Jonathan H. Schwartz, Retired,
Hearing Officer]

PROCEDURAL HISTORY

On January 10, 2011, the Programs and Investigations Unit of the Certification and Licensing Division of the Administrative Office of the Courts (hereinafter "Program") received a letter from attorney Gary Sundberg dated January 7, 2011. (Exhibit 4) Although the attorney said that he was not filing a complaint under section 7-201H of the Code of Judicial Administration (hereinafter "ACJA"), his seven-page letter with about 40 pages of attachments complained at length about the conduct of Julie Star. The Program treated the letter as a complaint. An investigation was begun that resulted in the Program issuing an Initial Summary of six allegations against Ms. Star on January 12, 2011. (Exhibit 1) The Program filed an Allegation Analysis Report and Probable Cause Evaluation on January 14, 2011 which was approved by the Division Director on January 19, 2011 and was evaluated and approved by the Probable Cause Evaluator on January

21, 2011. (Exhibit 2) The evaluator found probable cause that Ms. Star had in all six allegations committed violations of the ACJA Code of Conduct.

A Recommendation to the Board of Legal Document Preparers (hereinafter "Board") was submitted by the Division Director on January 21, 2011. The Director recommended that the Board find that the public health, safety and welfare was at risk and therefore the Board should enter an order of immediate summary suspension of Ms. Star's legal document preparer certification pursuant to AC JA section 7-201(H)(24)(a)(6). The Board entered an Emergency Summary Suspension Order on January 25, 2011 pursuant to ACJA sections 7-201(H)(9)(d)(1) and 7-201(H)(24)(a)(5) and set a hearing on February 8, 2011. The Hearing Officer who presided at that hearing on February 8, 2011 affirmed the Board's order of immediate summary suspension. Ms. Star requested a hearing on the allegations that she had violated certain sections of the ACJA. The hearing was held before a different Hearing Officer on May 2, 2011.

ALLEGATION #1 - STAR IMPROPERLY CHARGED A CONTINGENT FEE

FINDINGS OF FACT

1) Ms. Star had been retained in 2007 by Martha J. Gowens to prepare Ms. Gowens' will and trust. Ms. Star prepared other documents for Martha Gowens in 2009 and 2010. Martha Gowens died on August 1, 2010. On or about August 6, 2010, the five surviving children of Ms. Gowens, Robert Gowens, Ronald Gowens, Patricia Westwood, Joyce Adams and Marilyn

Larson retained Ms. Star to prepare documents related to the probate of Martha Gowens' estate. (TR194:14)

2) The letter from attorney Sundberg contained 20 exhibits. The Hearing Officer will refer to the letter as Exhibit 4 and to the attachments as sub-exhibits. Sub-Exhibit 16 to the letter was an e-mail from Ms. Star to Marilyn Larson of September 14, 2010. In the message Ms. Star complains of the fact that the children are attempting to reduce payments to Ms. Star for her work in preparing legal documents. Ms. Star stated, "Therefore, my billing seventy five hundred dollars (\$7500.00) for services concerning the informal probate is based on five percent (5%) of the estimated value of her estate."

3) At the hearing Ms. Star introduced Exhibit 13 which is dated August 24, 2010 and is signed by Ms. Star and one of the children Joyce Adams. This document is a fee agreement in which Ms. Star states that the \$7500 is a one time charge in lieu of an hourly charge.(TR 47:17)

4) Linda Grau of the Program testified that although this type of fee would not be a contingent fee in a lawyer-client setting, the Board has in another disciplinary matter determined that this is an improper contingent fee for a licensed document preparer to charge. (TR 40:22 through 44:2)

5) Ms. Grau indicated that the Program thinks that the size of an estate alone should not determine the amount of work that the legal document preparer would need to perform. Ms. Grau also testified that the

Program did not have an issue with the amount of \$7500 charged by Ms. Star. Instead, the concern was the way Ms. Star came up with the \$7500 charge. (TR 54:5 through 56:3, 65:18-24)

6) Ms. Star testified at the hearing that she selected the figure of \$7500 to charge the children for preparation of documents concerning the probate matter. Ms. Star stated that after she proposed the \$7500 figure to Marilyn Larson, Ms. Larson contacted her Nevada attorneys about this amount. Then Ms. Larson told Ms. Star that her attorneys said that \$7500 was appropriate because it was a little less than 5% of the value of Ms. Gowen's estate. (TR 170:18)

7) Ms. Star explained her e-mail communication to Ms. Larson (when Ms. Star made reference to the 5% of the estate) as Ms. Star was only using the concept that Ms. Larson introduced. (TR 178:9 through 180:16) Ms. Star denied that she arrived at the \$7500 figure by computing 5% of the value of the estate. (TR 176:18 through 177:22) Julie Star stated she did not base the \$7500 fee on difficulty in dealing with the clients, but on what work she had to do. She had to prepare the Appointment of Co-Trustees. She determined that instead of preparing just one piece of paper she would have to do the whole thing. (TR 183:6-12)

8) The Hearing Officer concludes that Ms. Star arrived at the \$7500 figure by estimating what 5% of the value of the estate would be. Ms. Star was aware that the estate included a life insurance policy of about \$20,000

and a house worth about \$145,000. (TR 172:6 through 173:11) Although 5% of \$165,000 would be \$8250, there appears to be no other way that Ms. Star estimated the \$7500 figure. She testified that her normal charge was \$85 per hour. (TR 174:13) Yet she did not give any testimony of the estimated number of hours she would need to conclude her work. She also testified that she thought the estate was worth between \$190,000 and \$200,000. (TR 173:11)

CONCLUSION OF LAW

9) The Program has proven by a preponderance of the evidence that Ms. Star violated ACJA section 7-208 (J)(3)(c)(1) by establishing a contingent fee as a basis of compensation. The ACJA does not further define the term "contingent fees." The regular meaning of this term from the attorney-client context is that an attorney will be paid a fee based on a percentage of the money received by his client either through settlement or judgment at the end of a case. In that context Ms. Star did not have a contingent fee. Her e-mail of September 12, 2010 to Marilyn Larson stated (after she confirmed that her fee was based on 5% of the estimated value of the estate), "Therefore in fact, 5% of the estimated value of the estate would have actually exceeded eight thousand dollars (\$8000) and feeling that it should have been a relatively organized task I reduced the amount to \$7500, an amount which now in hindsight due to all the problematic problems set forth by the five of you was short changing myself and rest

assured I can, if I so desired, billed by the hour but at this writing, I will stay with the \$7500 providing that you're appointed representatives to me, Pat and Joyce, provide me with that information I need to close this informal probate." (Exhibit 4, sub-Exhibit 16)

10) Ms. Star's statement quoted above is a confirmation that her fee was not going up or down based on the value of the estate at the end of the informal probate proceeding. Instead she was holding her fee at \$7500. A true contingent fee would be a sum of money that could not be determined until after the proceeding was over and a percentage was applied to a later determined value of the estate.

11) But a closer reading of the appropriate ACJA section leads to the conclusion that the drafters of this section were focusing on the words "... as a basis of compensation." The entire subsection 7-208(J)(3)(c)(1) reads, "A legal document preparer shall at all times be aware of and avoid impropriety or the appearance of impropriety, which may include, but is not limited to: 1) Establishing contingent fees **as a basis of compensation.**" (Emphasis added) The Hearing Officer has found that Ms. Star used the estimated size of the estate and a percentage of that figure to arrive at an appropriate fee. The ACJA is designed to have the legal document preparer provide a more definite basis for establishing the preparer's compensation. The size of the estate may have very little relationship to the amount of work in preparing documents that must be accomplished. Instead, the document preparer

should be giving the customer either an estimate of the amount of work that will be needed or an hourly rate billing.

ALLEGATION #2 - STAR HAD A CONFLICT OF INTEREST IN PREPARING DOCUMENTS RELATED TO THE SALE OF MS. GOWENS' RESIDENTIAL PROPERTY AND ENABLING HER HUSBAND JOHN STAR TO PURCHASE THAT PROPERTY

FINDINGS OF FACT

12) On August 6, 2011 the five children of the decedent Martha Gowens hired Ms. Star to prepare documents. Ms. Star prepared Exhibit 8, the Notice of Change of Trustee(s), Appointment of Co-Trustee(s). This document states that each of the five children of Martha Gowens "...agree that they will all share an equal part in being the co-executors/trustees for Martha J. Gowens." In addition, each of the children "...will share one-fifth (1/5) of the deciding vote when deciding on any and all issue(s) regarding any and all property which previously belonged to Martha J. Gowens..." The document also states, "4) All agreements regarding property of great value (i.e. a house or car), must be in writing and signed by each of the co-executors/trustees. If this is not done, the agreement will be held invalid, unless the co-trustees appoint a person to sign for the co-trustees."

13) Julie Star testified at the hearing that the five children of Martha Gowens did not get along well. She described the animosity between the children as a lot of hatred. (TR 186:1, 188:2) After Martha Gowens died, her house was to be sold. It was the largest piece of property in the estate.

On or about August 3, 2010 only two days after her mother died, Marilyn Larson (who lived in Nevada) called Julie and John Star who spoke to Marilyn on a speaker phone. Julie Star testified that Marilyn stated that she wanted to get her mother's house, but if her siblings knew she was going to buy the house they would raise the price on her. Marilyn told Julie and John Star that her siblings thought she was rich. (TR 185:2, 187:11)

14) John Star agreed to buy the house using Marilyn's money, make a commission, and then deed the house over to Marilyn. Julie Star prepared Exhibit 8 on August 14, 2010 knowing that her husband John Star was secretly buying the house for Marilyn Larson. (TR 195:13) Julie Star knew that John Star was purchasing the house with Marilyn Larson's money. (TR 186:6)

15) At the hearing Julie Star acknowledged that she was working for all five of the children of Martha Gowens who were paying her to prepare legal documents. (TR 189:25 through 190:20) Julie Star also testified that she knew all about her husband's role in assisting Marilyn Larson in getting the house. (TR 188:11) When questioned about whether what John was doing was appropriate, Julie testified that she knew it was wrong but that John went ahead and did it. (TR 192:17-25) In her words, "I knew about the purchase of the home." (TR 193:6) In response to the Hearing Officer's questions on this topic the following occurred:

"THE HEARING OFFICER: Okay. So that's where I am. This is the bottom line of this whole thing here. Why didn't you think it was the fair and right thing to do to let all the children know that Marilyn was going to buy the house?

THE WITNESS: Her other sister knew, Joyce. She knew about it, and they just said that they were going to tell it to them at their own time. I didn't think it was up to me to tell them.

THE HEARING OFFICER: No. I'm asking you a basic question. If Joyce already knew why didn't you and John tell Marilyn on that speaker phone. There is no way we are going to have John be some straw man for you. It's not necessary. They already know you're going to buy it. Just go buy the house from them. Otherwise, it will look like just what it is here today, that you were going to help Marilyn shine the, pull the wool over the eyes of the other children. There's no need for her to use John if they already knew.

THE WITNESS: Well, we did suggest that.

THE HEARING OFFICER: I'm not asking about what was suggested. I'm asking about why he went through, with your knowledge, going through this thing where he pulls a sham on them. He was not going to be the real buyer of the house. Why is his name down there as the purchaser of the house? I need to know an answer to that. And you're the person who is experienced enough in life to know what is and what is not a sham purchase here. Now, we also call that a straw man, but it doesn't matter. What's the

reason to use him if it isn't to keep something from the others? I don't, you've indicated one knew, but I don't understand why if you thought, as far as the trust documents, you with (sic) working after her death for all five of the children, why you let one child, Marilyn, who really had meant nothing to you, and you didn't have a close relationship, just over a suggested phone call, that you, you know, and John, throw John in there as some straw purchaser to help her keep some information secret from the others. And I can't understand why she would do it if she wasn't trying to keep it secret. And you just told us in this testimony that's exactly what she said on the phone: I don't want them to know because they will jack the price up. Well, didn't you think that that wasn't fair to the others?

THE WITNESS: Oh, yes. And we told them.

THE HEARING OFFICER: So you told her you wouldn't do it?

THE WITNESS: I told her that it was wrong, that she was hiding it from the other kids.

THE HEARING OFFICER: Well then, why did John go ahead and do that, if it was wrong?

THE WITNESS: Well, in my opinion it was wrong, but he, you know, I don't know. You would have to ask him.

THE HEARING OFFICER: Oh, so you weren't involved in that?

THE WITNESS: No.

THE HEARING OFFICER: He was independent on that?

THE WITNESS: Well, of course. I mean, he does his own thing. I was doing some things. I knew about the purchase of the home." (TR 190:21 through 193:8)

16) Julie Star did not prepare any of the documents concerning the purchase of the home, except she signed a Disclaimer Deed that she would not have a claim or interest in the property. (Exhibit 7) The five children of Martha Gowens signed the Warranty Deed on August 23, 2010 selling the home to John Star. (Exhibit 6) This Deed was prepared by Empire West Title Agency. John Star then sold the property to Marilyn Larson or Mel Larson for \$165,000. This transaction was set forth in a Quit-Claim Deed dated September 16, 2010. (Exhibit 9) Julie Star did not prepare this document.

17) Later Marilyn Larson sued both John Star and Julie Star on September 16, 2010. Marilyn claimed that she had intended to buy the property directly from the Trust, but that John and Julie Star advised her to forward the \$165,000 to John Star, who would then buy the property from the trust for \$145,000. The lawsuit alleged that John Star took title to the property "...on Plaintiff's [Marilyn Larson] behalf on August 31, 2010 but refused to deed the property" to Marilyn Larson. In addition, the lawsuit alleged that John Star used only \$146,967.92 to close on the property, but he had been given \$165,000 by Marilyn Larson. Ms. Larson alleged that John Star refused to refund the balance of \$18,032.08. (Exhibit 10) On the

same day this lawsuit was filed September 16, 2010, John Star signed a Quit-Claim Deed transferring the property to Marilyn Larson. (Exhibit 9)

18) In his letter to the Board, attorney Sundberg wrote about this transaction as follows: "Almost as equally disconcerting is that it was reported to the beneficiaries that John Star was purchasing the home (Exhibit 17). This was done because evidently one of the daughters of the beneficiary wanted to purchase the home but that fact was concealed from three of the other beneficiaries. From my conversations with the other three beneficiaries they were suspicious of that fact all along but really did not care. I, however, find a certified document preparer participating in such deception would certainly be unethical for a lawyer to do and shocks my conscience of what a certified legal document preparer should be engaged in." (Exhibit 4, pages 5-6)

CONCLUSION OF LAW

19) Julie Star has defended this allegation by pointing out the fact that the Board alleged that she engaged in a conflict of interest by preparing documents pertaining to the sale of the residential property enabling her husband to purchase the property. Julie Star asserted that she did not prepare any of the documents for her husband to purchase the property. She did however prepare Exhibit 8 in which all five co-trustees were to have knowledge of any transaction involving the property. She did this knowing that one of the co-trustees Marilyn Larson was keeping a secret from the

other four co-trustees and that John Star was assisting Marilyn in this deception.

20) The Hearing Officer concludes that this was a clear conflict of interest and that the Program has established this violation by a preponderance of the evidence. Julie Star knew that Marilyn was using the deception of John Star buying the property so that she would not have to pay a higher price if her co-trustees knew she was the real purchaser. Julie Star also knew that she was working for all five co-trustees. The applicable code sections are 7-208 (J)(1)(a), (b), (c) and (J)(2)(c). A legal document preparer must avoid impropriety and the appearance of impropriety and should act in a way that promotes public confidence in the integrity of the legal system. The document preparer should be alert to conflicts of interest and even the appearance of a conflict of interest and should not engage in unprofessional conduct. A document preparer should always observe the highest standards of integrity and truthfulness in professional dealings.

21) Julie Star failed to comply with any of the above referenced code provisions when she knew that her husband would participate in Marilyn Larson's secret from her co-trustees in buying the major piece of property in her mother's estate. As a document preparer for all five co-trustees and as the person who prepared the Appointment of Co-Trustees, Julie Star knew that all five co-trustees should have had the same information about the sale of that significant piece of property. It was a secret, a deception and a clear

conflict of interest for Julie not to inform the other co-trustees of what her husband was doing with Marilyn Larson. Julie Star should have told Marilyn that she would not permit the transaction to occur with John Star, and that if Marilyn and John insisted on the transaction, Julie would inform the other co-trustees. Julie Star did not do these things. Several times during the hearing she left the Hearing Officer with the impression that she simply did what other people said, even though she knew it was wrong.

ALLEGATIONS #3 AND #4 - STAR NOTARIZED MARTHA GOWENS' SIGNATURE ON TWO DOCUMENTS WHEN MS. GOWENS DID NOT PERSONALLY APPEAR BEFORE STAR

FINDINGS OF FACT

22) Julie Star in June 2010 sent Martha Gowens two documents. (TR 197:3, 200:9-17) Martha was living in Nevada. (TR 196:17) According to attorney Sundberg Martha was seriously ill at this time. (Exhibit 4, page 6) The first document, a Limited Power of Attorney, forms the basis for allegation #3. (Exhibit 4, sub-exhibit 19) Julie Star testified that she faxed this document to Martha. Julie Star prepared the document so that Martha could have her signature notarized in Clark County, Nevada. However, when the document was returned to Julie Star, Martha's signature was not notarized. (TR 197:16)

23) At the hearing Julie Star admitted that she notarized Martha's signature stating that Martha "personally appeared." Ms. Star confirmed that Martha never signed this document in Ms. Star's presence. (TR 197:25)

through 198:3) Julie Star testified that she recognized Martha's signature. Ms. Star asked for a doctor's note stating that Martha was competent to sign the Power of Attorney. (TR 198:20) Julie Star stated that she received a note from Dr. Marie Navasero of Henderson, Nevada stating that Ms. Gowens was competent enough to make decisions about her will. A copy of this doctor's note was received at the hearing as Exhibit 15. The note is dated July 20, 2010. Ms. Star testified that she did not know the doctor who wrote the note. (TR 202:10) Martha was in the hospital at this time. Julie Star's husband called the doctor. (TR 202:18) Julie Star notarized Martha's signature on the Limited Power of Attorney on June 24, 2010. This document still contained the designation as State of Nevada, County of Clark, when Ms. Star, an Arizona notary, signed it.

24) The Power of Attorney appointed Martha's granddaughter Vicki Lynn Adams as Martha's attorney in fact. Ms. Adams was empowered to distribute items Martha had marked in her home in Arizona. The items were marked for distribution to certain people. Ms. Adams would give these items to the people whose names were on them. Ms. Adams was to proceed to sell Martha's personal belongings and send all of the proceeds to Martha in Henderson, Nevada. (Exhibit 4, sub-exhibit 19)

25) Julie Star's notarization of Martha Gowen's signature on the Property Agreement of June 28, 2010 forms the basis for allegation #4. (Exhibit 4, sub-exhibit 18) Ms. Star testified that she sent this document to

Martha about three days before Ms. Star notarized it. (TR 200:9-17) Julie Star called Martha about the document. Julie testified that she knew she was talking to Martha during this telephone call. (TR 201:2-6) Martha did not sign this document in Julie Star's presence.

CONCLUSION OF LAW

26) The Program has proven by a preponderance of the evidence that in allegations #3 and #4 Julie Star violated several provisions of the ACJA Code of Conduct. Ms. Star asserted that since she knew Martha's signature she was doing nothing wrong by notarizing that signature even though the signer did not personally appear before her. She testified that Martha's family could not get a notary to Martha in Nevada. ARS sections 41-311(1), (6) and (10) respectively define "acknowledgment," "jurat" and "oath" or "affirmation" in the notary context as requiring the person who is signing the document to appear before the notary. Julie Star is a legal document preparer. It is her business and profession to know the appropriate requirements for document preparation. If she is notarizing documents as part of her document preparation she of all people should be complying with the letter of the law.

27) Julie Star violated ACJA section 7-208(J)(1)(a) which required her to avoid impropriety and the appearance of impropriety and to respect and comply with the laws so that she would promote public confidence in the integrity of the legal and judicial system.

28) Ms. Star violated ACJA section 7-208(J)(1)(d) which required her to refrain from knowingly making an untrue representation while assisting a consumer in preparing documents. Julie Star knew that it was not true that Martha Gowens personally appeared before her.

29) Finally, Julie Star violated ACJA section 7-208(J)(5)(a) which requires certified legal document preparers to perform all of their duties in accordance with applicable laws. Ms. Star's notarization of the two documents set forth above violated the three statutes referred to in paragraph 26, that require the person signing the document to appear before the notary. Although legal document preparers are not lawyers, the Code of Conduct set forth in the ACJA requires the document preparers to conduct themselves in a professional and lawful manner. The Code recognizes that the consuming public will have an impression about the integrity of the legal and judicial system from their contacts with certified legal document preparers. Ms. Star failed to maintain this standard of conduct in allegations #3 and #4. Instead, she left the impression that the requirements of the law are merely technical niceties that can at times be ignored. Once again, Ms. Star chose an easy way out that was more convenient for her, but that was contrary to the requirements of the law.

ALLEGATION #5 - STAR PLACED HER OWN ADDRESS ON INFORMAL PROBATE DOCUMENTS STATING THAT HER ADDRESS WAS THE MAILING ADDRESS FOR TWO PRO PER LITIGANTS

FINDINGS OF FACT

30) Julie Star prepared Exhibit 17 a document to be filed in Superior Court, Maricopa County. Two of the children of Martha Gowens, Joyce Adams and Patricia Westwood were submitting this document to the court as pro per litigants in the informal probate of Martha Gowens' estate. The document appropriately contains a designation that it was prepared by Ms. Star. Above the caption is the following: "Julie D. Star, AZCLDP 80294".

31) Ms. Star placed the names of Joyce Adams and Patricia Westwood above the caption of Exhibit 17. (See also Exhibit 4, sub-exhibit 13) She also placed the home addresses of these two people under their names. Under each person's home address Ms. Star added the following: "**Mailing Address: c/o 3051 N 87th Drive, Phoenix, AZ 85037**". (Emphasis supplied) Ms. Star lived at this address. Underneath the "**Mailing Address**", the document stated that Ms. Adams and Ms. Westwood were "Representing: Self (without a lawyer)".

32) Julie Star testified that the five children of Martha Gowens decided to authorize Joyce Adams and Patricia Westwood to sign documents on behalf of all of them to speed up the process of the informal probate. (TR 202:21) (Exhibit 16) Ms. Star also stated that all of the children wanted to make sure that the documents in the informal probate got to the right place.

Julie stated that the children did not trust each other. Therefore, Julie Star used her own address as the mailing address for Joyce Adams and Patricia Westwood so that any notices coming from the court would go to her and she could then make sure that all five children would receive copies. (TR 205:13 through 207:1)

CONCLUSION OF LAW

33) The Program has proven by a preponderance of the evidence that Julie Star violated ACJA sections 7-208(J)(1)(d) and (J)(5)(a) which required her to refrain from making misleading, deceptive or untrue representations and to perform her duties in compliance with applicable laws, rules or court orders. Maricopa County Superior Court Local Rule 2.15 requires that a pro per litigant place her name, address and telephone number above the caption on the first page of a document filed in court. Julie Star listed her own address as the mailing address for Joyce Adams and Patricia Westwood on the document in question. By doing so Ms. Star stated something that was not technically true, i.e., that her mailing address was an address for Ms. Adams and Ms. Westwood. Local Rule 2.15 only permits a lawyer representing the party to place her address on a document or a pro per litigant to place her address on a document. This local rule does not authorize a certified legal document preparer to place her address on the document.

ALLEGATION #6 - STAR AT MARTHA GOWEN'S DIRECTION CHANGED MARTHA'S WILL TO REDUCE ROBERT GOWENS' INHERITANCE TO \$1.00 FROM 20% OF MARTHA'S ESTATE; BUT AFTER MARTHA'S DEATH STAR PREPARED DOCUMENTS ASSIGNING ROBERT A 20% INTEREST IN THE ESTATE

FINDINGS OF FACT

34) On May 10, 2007, Julie Star prepared a document for Martha Gowens entitled "The Martha Gowens Living Trust (the "Trust") Declaration of Trust." (Exhibit 4, sub-Exhibit 1) Each of the five children (they were described as "beneficiaries" of the trust) of Martha was given a 20% interest in the residual assets of the Trust. Martha Gowens was designated as the Trustee and the Successor Trustee was Marshall & Ilsley Trust Company, NA located at 7702 E. Doubletree Ranch Rd., in Scottsdale, Arizona.

35) On May 10, 2007, Julie Star prepared a document for Martha Gowens entitled "Last Will and Testament of Martha Juanita Gowens." In this document Martha stated, "I give all the rest and residue of my estate to my children, share and share alike:(20% each) Robert Duane Gowens, Marilyn Kay Larson, Joyce Fay Adams, Patricia Louise Westwood and Ronald Eugene Gowens". (Exhibit 4, sub-exhibit 2)

36) Julie Star testified that in 2009 Martha asked Julie to reduce Robert Gowen's inheritance to one dollar. (TR 209:23) Ms. Star prepared a modification to the Will, but did not modify the Trust. Julie stated that she asked Martha to change the Trust and that she even told Martha that it

might be a problem if Martha didn't change the Trust, and Martha said she didn't want to do it at that time. (TR 210:1)

37) After Martha died Julie Star prepared the Notice of Change of Trustee, Appointment of Co-Trustee on August 14, 2010. (Exhibit 8) All five children including Robert were named as Co-Trustees. When Julie Star was confronted with the allegation that she had prepared a document after Martha's death which restored Robert to a 20% interest, Julie stated that Exhibit 8 did not restore Robert to an equal share of the proceeds of the estate. She did not interpret Exhibit 8 as returning Robert to a 20% interest. (TR 210:25) Instead, she testified that Exhibit 8 only gave Robert as a member of the family a 20% vote in matters relating to the estate. (TR 211:2)

38) A careful reading of Exhibit 8 the Notice of Change of Trustee, Appointment of Co-Trustee reveals that this document does not expressly address the interests of each co-trustee in the proceeds of the estate. Several phrases however come very close to inferring that all five children will have equal interests in the proceeds. The document states in three parts: 1) "Each of the above named persons agree that they will all share an equal part in being the co-executors/trustees for Martha J. Gowens," 2)"Each of the children mentioned herein will share one fifth($\frac{1}{5}$) of the deciding vote when deciding on any and all issue(s) regarding any and all property which previously belonged to Martha J. Gowens, their natural mother who is

now deceased", and 3) "All agreements regarding property of great value(i.e. a house or car), must be in writing and signed by each of the co-executors/trustees. If this is not done, the agreement will be held invalid, unless the co-trustees appointed a person(s) to sign for the co-trustees."

37) Exhibit 8 also stated that the Trust and Living Will and "jointly known wishes of the late Martha J. Gowens are to be kept in good faith during the decision-making process. If any of the decisions go against the wishes and wants of the late Martha J. Gowens, a new route is to be taken."

38) In an e-mail to Marilyn Larson, that was intended for all of the children dated September 14, 2010 Julie Star made several references to the fact that Martha Gowens insisted that Robert Gowens' share of her estate be reduced to one dollar. In referring to Martha, Julie stated, "She changed her Will to allow Robert one dollar (\$1.00) upon her demise and like I said earlier in this letter, I give you general advice that you need to get a judge to change that, but again, visit with an attorney of your choice." (Exhibit 4, sub-Exhibit 16)

CONCLUSION OF LAW

39) The Program has not proven by clear and convincing evidence that Julie Star prepared documents for the Gowens' children after Martha's death assigning Robert a 20% interest in the estate.

40) Exhibit 8 does not expressly say anything about interests in the estate. It appears to be a document solely relating to decision-making.

Although it could be inferred from the three passages quoted above that the five children having equal authority to make decisions must necessarily have equal interests in the estate, this is not the only inference that could be drawn from this document. Robert could participate in decision-making as an equal partner with his siblings without participating in the proceeds of the estate equally. At subsection 9 of this document it states that the Trust and Living Will and jointly known wishes of Martha are to be followed in the decision-making process. Although Martha did not change her Trust from assigning Robert a 20% interest, she changed her Will to reduce his share to one dollar. The document can be read to require the decision-makers to follow Martha's last wishes to grant Robert no more than one dollar.

41) Therefore, it is not clear from this record that Julie Star prepared any document for the children after Martha's death that restored Robert to a 20% share in the proceeds of her estate. Since that appears to be the basis that the Program has adopted for allegation #6, (See Pre-Hearing Memorandum of Legal Document Preparers Program, April 27, 2011 and Notice of Formal Statement of Charges and Right to Hearing, paragraph 52) the Hearing Officer concludes that the Program has not established a violation in this matter by a preponderance of the evidence.

MITIGATING AND AGGRAVATING FACTORS

42) The Hearing Officer finds that a mitigating factor is applicable in Julie Star's case, the absence of a prior disciplinary record. ACJA section 7-201(H)(22)(b)(1)(a)

43) The Hearing Officer finds four aggravating factors applicable in this case.

1) Julie Star had a dishonest motive when she kept from all of the co-trustees the secret that her husband was assisting Marilyn Larson in buying Martha Gowens' house. ACJA section 7-201(H)(22)(b)(2)(b)

2) Julie Star had a selfish motive when she kept the involvement of her husband in Marilyn Larson's purchase of Martha Gowen's house a secret from Marilyn's siblings. John Star expected to receive a 15% fee for assisting Marilyn Larson in deceiving her siblings when John Star purchased the home from the siblings. After Marilyn Larson sued Julie and John Star the lawyers representing the Stars filed Defendants' Rule 26.1 Initial Disclosure Statement on January 5, 2011. Counsel for John and Julie Star stated, "After Decedents [Martha Gowens] death, Plaintiff [Marilyn Larson] approached Defendants [Julie and John Star] expressing an interest in purchasing Decedent's home. The parties reached an agreement whereby Plaintiff would give \$165,000 to Defendant John Star, which would cover the purchase price of the property, the closing costs, taxes, **as well as Defendant John Star's 15% fee for his participation in the**

transaction. At no time did Defendant John Star agree to go forward with the transaction free of charge. Pursuant to their agreement, Defendant John Star took title to the property and promptly deeded the property over to Plaintiff. Plaintiff now claims she is entitled to a refund of the remaining balance, which was not part of the parties' original agreement." (Exhibit 12, page 2, lines 9-17) (Emphasis added) Although Julie Star signed a Disclaimer Deed (Exhibit 7) asserting that she had no interest in the home, that document does not divest Julie Star of her community property interest in any fee that John Star would have made from his participation in the transaction. ARS section 25-211 states that all property acquired by either husband or wife during marriage is the community property of the husband and wife. ACJA section 7-201(H)(22)(b)(2)(c)

3) Julie Star has committed multiple offenses in this case. She used a percentage of the estate of Martha Gowens as a basis for arriving at her fee for document preparation. She engaged in a conflict of interest by knowing that her husband was assisting Marilyn Larson in buying the home, that her husband expected to make a commission from his participation and that she was keeping this information secret from the other co-trustees. She notarized signatures of Martha on two documents in which she avowed that Martha appeared personally before her, when she knew this was not true. She placed her address as the mailing address for two pro per litigants

on a document she prepared for filing in Superior Court. ACJA section 7-201(H)(22)(b)(2)(d)

4) Julie Star has substantial experience as a certified legal document preparer. She has been certified beginning of the program in 2003. She testified at the hearing that she's been preparing legal documents since 1993. (TR 164:15) ACJA section 7-201(H)(22)(b)(2)(i)

PROPORTIONALITY ANALYSIS

44) The matter regarding Julie Haigh and Majestic's Paralegal Center, 07-L028 is similar to one of the violations of Julie Star in the instant case. In *Haigh* the document preparer charged a fee based on a percentage of the value of decedent's estate. The Board suspended the document preparer's certification for one year, issued a cease and desist order, directed the document preparer to engage in continuing education and assessed costs and a civil penalty.

45) In the matter of Lory Toon the document preparer notarized and recorded a Quit Claim Deed, she took possession of the residential property that was owned by one of her customers, and made a profit for herself by renting the home to others. In addition to civil penalties, costs and the issuance of a cease and desist order, her certification was revoked.

46) In the case of Mohammed Riyad the document preparer submitted documents in Bankruptcy Court which he had notarized as being the signatures of his consumer. In fact these documents were not signed by Mr.

Riyad's consumer. The Board revoked Mr. Riyad's certification, issued a cease and desist order, ordered continuing education and imposed a civil penalty in addition to the assessment of costs.

47) The Board in the matter of Beverly Hall dealt with the issue of a legal document preparer putting her own contact information on the document filed in court. Instead of proceeding to hearing on the formal charge, Ms. Hall surrendered her certificate "under discipline."

48) In the matter of Cassandra Bruce the Board determined that the legal document preparer engaged in a scheme with a disbarred attorney in which the document preparer placed her name, signature and certification number on more than 120 bankruptcy petitions. The Board found that the conduct of Ms. Bruce threatened the health, safety and welfare of the public.

49) The cases set forth in paragraphs 44 through 48 above are of course not exactly similar to Julie Star's case. No two cases will be exactly similar. However, these cases demonstrate that the Board considers that serious consequences should occur when conduct similar to Ms. Star's occurs. Ms. Haigh received a suspension of not less than one year although her conduct was related to only one of the areas for which Ms. Star was found to be in violation. Ms. Toon's certification was revoked, but she profited directly by taking possession of property owned by one of her customers. Ms. Star's husband expected to earn a commission for his role in assisting Marilyn Larson in purchasing Martha Gowen's home. The money

that John Star would make, would also benefit the community of John and Julie Star. Julie Star's notarizing Martha Gowen's signatures when Martha did not appear personally before Julie is not as serious as Mr. Riyadh's conduct that led to the revocation of his certificate. Mr. Riyadh presented the signatures as if they were from his consumers when in fact they were not the signatures of his consumers. Beverly Hall surrendered her certificate when she was accused of putting her own address in the caption of documents filed in court.

50) In each of the cases set forth above one aspect was similar to the proven allegations against Ms. Star. However, Ms. Star has been found to have engaged in five separate violations. The cases demonstrate that it is entirely proportional for the Board to order the revocation of Ms. Star's certification, issue a cease and desist order, direct that as a condition of reinstatement Julie Star participate in no less than 10 hours of continuing education, assess the costs of these proceedings against Julie Star and impose a civil penalty of \$250 per violation.

RECOMMENDATION

ACJA section 7-201(C) states, "The primary purpose of the certification and discipline processes is protection of the public. In addition, the certification programs ensure compliance to the highest ethical standards, rehabilitation of the certificate holder and deterrence of further unprofessional conduct pursuant to subsection (H)(6)(k), in accordance with

the statutes, court rules and ACJA." Ms. Star's conduct was serious on a number of levels. She kept secret from the people who were paying her fee the fact that her husband was helping Marilyn Larson buy their deceased mother's home. She did this to assist Marilyn Larson who did not want to pay a higher price for the home if Marilyn's siblings (Julie Star's clients) knew Marilyn was the purchaser. Julie Star would have shared in John Star's commission because his "fee" was community property. This conflict of interest involved Julie Star aiding a deception. She knew on August 3, 2010 that John Star would "buy" the home using Marilyn Larson's money, but that this was a sham purchase to deceive the other co-trustees. Yet, on August 14, 2010 Julie Star prepared the Notice of Change of Trustees/Appointment of Co-Trustees which stated that all agreements regarding the house must be signed by each of the co-trustees. This document meant that the five co-trustees were entitled to know the real circumstances of any purchase of their deceased mother's home. Julie Star deliberately omitted to tell them the truth about John's purchase of the home, thereby knowingly aiding John and Marilyn in obtaining the unanimous approval of the co-trustees (and thus facilitating the sale of the home to Marilyn Larson) under false pretenses.

In notarizing the signatures of Martha Gowens on two documents when Martha did not personally appear, Julie Star demonstrated that she is willing to bend the rules if she thinks that the circumstances require it. Yet,

she knew that the law required Martha to sign in the presence of the notary because she prepared and sent the document to Martha in Nevada with a Clark County, Nevada caption for the local notary. When a Nevada notary did not notarize the documents, Julie Star avowed falsely that Martha had appeared personally before her. This was a short-cut not authorized by law.

Julie Star placed her own address on a document she prepared for two of her consumers to file as pro per litigants. Julie placed her address on the document in such a way that it would lead the Court to think that her address was a mailing address for the pro per litigants. Although Local Rule 2.15 allows an attorney to receive mail for her client, it does not permit a legal document preparer to do the same thing.

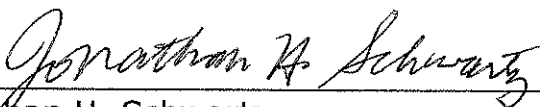
The Hearing Officer recommends the following sanctions:

- 1) Ms. Star's certification be revoked;
- 2) A cease and desist order issue enjoining Ms. Star from preparing legal documents and from representing herself to the public as a certified legal document preparer, or from conducting any activity that constitutes the unauthorized practice of law;
- 3) An Order issue stating that as a condition of reinstatement Julie Star must participate in no less than ten (10) hours of continuing education in professional responsibility and ethics,

in addition to the hours of continuing education required for renewal of certification;

- 4) Assess against Julie Star the costs of these proceedings including costs associated with the investigation to be paid no later than sixty (60) days from the Board's Final Order;
- 5) Impose civil penalties of \$250 per violation against Julie Star to be paid no later than sixty (60) days from the Board's Final Order.

Dated this 15th day of June, 2011


Jonathan H. Schwartz
Hearing Officer

ORIGINAL filed with the Disciplinary Clerk
this 15th day of June, 2011.

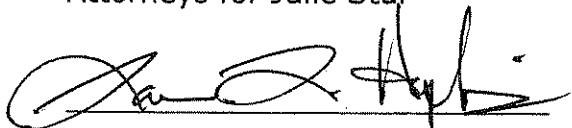
COPY of the foregoing mailed this 15th
day of June, 2011, to:

Board of Legal Document Preparer
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A handwritten signature in black ink, appearing to read "Russell F. Wenk", written over a horizontal line.

Cost Statement

Julie Star - Complaint Number 11-L001

STAFF COSTS			\$2,426.58
PROCESS SERVER			\$127.00
	Emergency Suspension Order	\$58.70	
	Notice of Formal Statement of Charges	\$68.30	
CERTIFIED MAIL			\$4.58
COURT REPORTER TRANSCRIPTS			
	Emergency Suspension Hearing	\$378.95	\$1,672.45
	Disciplinary Hearing	\$1,293.50	
	TOTAL		<u>\$4,230.61</u>

*Costs as of July 7, 2011

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary – Monday, July 25, 2011

2) REVIEW OF PENDING COMPLAINTS

2-D: *Review, discussion and possible action regarding a proposed Consent Agreement resolution of the pending formal disciplinary action in complaint number 10-L033 involving certificate holders Judith Alsbaugh and Capital Consultants Management Corporation.*

On April 25, 2011, the Board reviewed the attached Investigation Summary and Probable Cause Determination and entered the attached Order. The attached proposed Consent Agreement has been entered by the certificate holders. Page 4, paragraph 9 (language previously approved by the Board in another unrelated matter) has been added to the Consent Agreement. Division staff recommends the Board enter the proposed Consent Agreement and authorize the Chair to sign the document on behalf of the full Board.

1
2
3 **ARIZONA SUPREME COURT**
4 **BOARD OF LEGAL DOCUMENT PREPARERS**

5 IN THE MATTER OF CERTIFIED
6 LEGAL DOCUMENT PREPARERS:

NO. 10-L033

7 JUDITH ALSPAUGH,
8 Certificate Number 81016

CONSENT AGREEMENT

9 And

10 CAPITAL CONSULTANTS
11 MANAGEMENT CORPORATION,
Certificate Number 80418

12
13 **JURISDICTION**

14 Pursuant to Arizona code of Judicial Administration ("ACJA") § 7-201 and ACJA
15 § 7-208, the Board of Legal Document Preparers ("Board") has jurisdiction over this
16 matter as Judith Alspaugh ("Alspaugh") and Capital Consultants Management
17 Corporation ("CCMC") are certified legal document preparers. On May 24, 2010,
18 Administrative Office of the Courts Director David K. Byers initiated complaint number
19 10-L033 pursuant to ACJA § 7-201(H)(1)(b). The initiated complaint contained two
20 allegations for investigation by the Certification and Licensing Division ("Division").
21 Allegation 1 alleged Alspaugh and CCMC exceeded the authority of a certified legal
22 document prepared and engaged in the unauthorized practice of law by signing a "Notice
23 and Claim of Lien" as the "Authorized Representative" for CCMC customer Power Ranch
24 Community Association. Allegation 2 alleged certified legal document preparer and
25 CCMC employee Jacqueline Vigil, acting on behalf of CCMC, exceeded the authority of
26 a certified legal document preparer and engaged in the unauthorized practice of law by

1 signing a "Notice and Claim of Lien" prepared for CCMC customer Coyote Lakes
2 Community Association. During the investigation of the complaint, two additional
3 allegations were derived. Allegation 3 alleged Alspaugh failed to place CCMC's business
4 name, title and certification number on numerous "Notice and Claim of Lien" documents
5 prepared and recorded with the Maricopa County Recorder's Office, as required by ACJA
6 § 7-208(F)(3). Allegation 4 alleged Alspaugh failed to fulfill her responsibilities as
7 designated principal to ensure CCMC employees were acting in compliance with Arizona
8 Supreme Court Rule 31, ACJA § 7-201 and § 7-208.

9 On February 18, 2011, Probable Cause Evaluator Mike Baumstark entered a
10 finding probable cause exists in complaint number 10-L033.

11 On April 25, 2011, the Board accepted the finding of the Probable Cause Evaluator
12 in complaint number 10-L033 and entered a finding grounds for formal disciplinary action
13 exists pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct
14 involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and ACJA § 7-
15 208(F)(2), (F)(3), (F)(6)(c), (J)(5)(a) and (J)(5)(b). The Board further ordered this
16 Consent Agreement resolution of the formal disciplinary action be offered to Alspaugh
17 and CCMC in advance of the filing of a Notice of Formal Statement of Charges. By
18 entering this Consent Agreement, Alspaugh and CCMC understand they waive their right
19 to hearing regarding complaint number 10-L033 and agree to the following Consent
20 Agreement provisions pursuant to ACJA § 7-201(H)(24)(a)(6)(c):

21 1. The Board finds misconduct and Alspaugh and CCMC acknowledge and accept
22 responsibility for the misconduct detailed in the Investigation Summary, Allegation
23 Analysis and Probable Cause Determination Report and Board Order issued in complaint
24 number 10-L033.

25 2. The Board will issue a Censure to Alspaugh, pursuant to ACJA § 7-
26 201(H)(24)(a)(6)(b).

1 3. The Board will issue a Censure to CCMC, pursuant to ACJA § 7-
2 201(H)(24)(a)(6)(b).

3 4. The Board orders and Alspaugh agrees to participate in no less than five (5) hours
4 of continuing education in the curriculum areas of professional responsibility, ethics, and
5 the unauthorized practice of law, in addition to any hours otherwise required for renewal,
6 pursuant to ACJA § 7-201(H)(24)(a)(6)(f).

7 5. The Board will order and CCMC agrees to be placed on probation for a period of
8 not less than six months pursuant to ACJA 7-201(H)(24)(a)(6)(e) with the following
9 conditions:

10 i. CCMC shall immediately and hence forth cease and desist from offering or
11 providing any legal services that exceed the authorities of a certified legal document
12 preparer or otherwise constitute the unauthorized practice of law; including any and all
13 contractual service agreements, pursuant to ACJA 7-201(H)(24)(a)(6)(g).

14 ii. No later than sixty (60) days following the board's entry into this Consent
15 Agreement, CCMC shall develop and implement policies and procedures necessary to
16 ensure no member of the CCMC staff, its officers, or any others acting on behalf f of the
17 business entity are engaging in the unauthorized practice of law. A copy of the written
18 policies and procedures shall be submitted to the Division.

19 iii. CCMC and Alspaugh shall submit to the Division an updated and
20 comprehensive list of any and all individuals providing legal document preparation
21 services on behalf of the certified business entity within fifteen (15) days following the
22 Board's entry in to this Consent Agreement. The list shall indentify the certification status
23 of each individual and identity, if applicable, whether each individual is an ACJA §7-
24 208(F)(5) trainee along with the date the trainee meets the minimum eligibility
25 requirements to apply for individual certification.

26 6. The Board assesses and CCMC agrees to pay the costs associated with the

1 investigation and any related administrative proceedings involving complaint number 10-
2 L033 in the amount of \$175.80, pursuant to ACJA §7-201(H)(24)(a)(6)(j). CCMC shall
3 remit the assessed costs to the Certification and Licensing Division, 1501 West
4 Washington, Suite 104 Phoenix, Arizona, 85007, made payable to the "Arizona Supreme
5 Court" within 60 days of the board's entry into this Consent Agreement.

6 7. The Board imposes and CCMC agrees to pay a civil penalty in the amount of
7 \$250.00 per found violation totaling \$1,000.00, pursuant to ACJA §7-201(H)(24)(a)(6)(k).
8 CCMC shall remit the imposed civil penalty the Certification and Licensing Division,
9 1501 West Washington, #104, Phoenix, Arizona 85007, made payable to the "Arizona
10 Supreme Court" within 670 days of the Board's entry into this Consent Agreement.

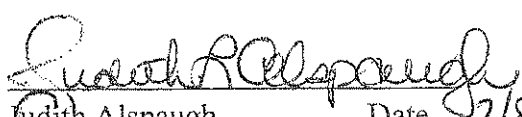
11 8. Alspaugh and CCMC understand failure to comply with the terms of this consent
12 Agreement may result in the Board taking further disciplinary action or denying renewal
13 of certification.

14 9. The Board, Alspaugh, and CCMC recognize that conceivably there could be
15 additional complaints against Alspaugh, CCMC, or other CCMC employees relating to
16 the same or substantially the same conduct or categories of conduct as set forth in the
17 Investigative Report and the Consent Agreement, including, but not limited to preparing,
18 filing or recording documents, which occurred prior to Alspaugh or CCMC having
19 knowledge of the subject complaint and determinations, and that this Consent Agreement
20 and the resolution herein are intended to resolve any and all such matters involving the
21 same or similar categories of conduct. Additionally, should the Certification and
22 Licensing Division receive a complaint in the future pertaining to other conduct in which
23 Alspaugh, CCMC, or other CCMC employees engaged prior to the date of this Consent
24 Agreement, this Consent Agreement shall be deemed a significant mitigating factor
25 pursuant to ACJA § 7-201(H)(22)(b)(1).
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Entered into on this date by:

Entered into on this date by:


Judith Alspaugh Date 7/8/2011
Certificate Number 81016
Designated Principal for Capital Consultants
Management Corporation
Certificate Number 80418

Les Krambeal, Chair Date
Board of Legal Document Preparers

1 An original copy of the foregoing hand delivered and/or mailed this _____ day of
2 _____, 2011, to:

3
4
5 Judith Alspaugh
6 Capital Consultants Management Corporation
7 8360 East Via de Ventura, #L-100
8 Scottsdale, Arizona 85258

9 Krystal Aspey
10 Quarles & Brady
11 2 North Central Avenue
12 Phoenix, Arizona 85004

13 Rex Nowlan
14 Administrative Law Section
15 Arizona Attorney General's office
16 15 South 15th Avenue
17 Phoenix, Arizona 85007

18 Nina Preston, Assistant Counsel
19 Administrative Office of the Court
20 1501 West Washington
21 Phoenix, Arizona 85007

22 Certification and Licensing Division
23 Arizona Supreme Court
24 1501 West Washington, suite 104
25 Phoenix, Arizona 85007

26 By: _____
Debbie MacDougall, Programs Specialist
Certification and Licensing Division

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY**

CERTIFICATE HOLDER INFORMATION	Certificate Holder:	Judith Alspaugh
	Certification Number:	81016
	Business Name:	Capital Consultants Management Corporation
	Certificate Number:	80418
	Type of Certificate/License:	Legal Document Preparer
COMPLAINANT	Name:	David Byers, Administrative Director of the Courts
INVESTIGATION INFORMATION	Complaint Number:	10-L033
	Investigator:	Karla Clanton
	Complaint Received:	May 24, 2010
	Complaint Forwarded to the Certificate Holder:	May 25, 2010
	Response From Certificate Holder Received:	June 23, 2010
	Report Date:	September 8, 2010

The investigation of this complaint included the following:

- Written complaint initiated by Administrative Director of the Courts David Byers ("Director Byers")
- Written response and documentation submitted by Attorney David T. Barton ("Barton") on behalf of Judith Alspaugh ("Alspaugh") and Capital Consultants Management Corporation ("CCMC")
- Review of Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Revised Statutes ("ARS"), Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208, and Arizona Supreme Court Rules

ALLEGATIONS ALLEGED BY COMPLAINANT:

1. Certified legal document preparers Judith Alspaugh ("Alspaugh") and Capital Consultants Management Corporation ("CCMC") exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a "Notice and Claim of Lien" as the "Authorized Representative" for CCMC customer Power Ranch Community Association.
2. Certified legal document preparer and CCMC employee Jacqueline Vigil ("Vigil"), acting on behalf of CCMC, exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a "Notice and Claim of Lien" prepared for CCMC customer Coyote Lakes Community Association.

ADDITIONAL ALLEGATIONS:

3. Alspaugh failed to place CCMC's business name, title and certification number on numerous "Notice and Claim of Lien" documents prepared and recorded with the Maricopa County Recorder's Office, as required by ACJA § 7-208(F)(3).
4. Alspaugh failed to fulfill her responsibilities as designated principal to ensure CCMC employees were acting in compliance with Arizona Supreme Court Rule 31, ACJA § 7-201 and § 7-208.

SUMMARY OF INVESTIGATION:

No provision of law, court rule or ACJA authorizes a certified legal document preparer to act in a representative capacity or to sign documents on behalf of a customer. On May 24, 2010, Director Byers initiated this complaint involving Alspaugh and CCMC to investigate unauthorized practice of law issues involving Alspaugh and CCMC staff demonstrated by and through liens prepared for recording with the Maricopa County Recorder's Office. Alspaugh and CCMC employee Vigil, acting on behalf of CCMC, signed the Notice and Claim of Lien' documents as representatives of CCMC's HOA customers. Both Alspaugh and Vigil list their names, titles and certification numbers on the recorded documents identifying themselves as the certificate holders responsible for preparing the respective documents. However, they failed to include the required identification for the certified business on the documents.

On June 23, 2010, CCMC and Alspaugh's attorney, Barton, submitted a written response to the complaint. Barton argued CCMC and Alspaugh were in compliance with the rules that govern legal document preparers. Barton response stated Alspaugh and CCMC staff signing as an "Authorized Representative" was not the same as representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process as provided for in ACJA § 7-201(J)(5)(b). Barton also asserted CCMC holds contractual agreements with both HOAs listed in the allegations which specifically authorize CCMC "to institute legal actions or proceedings for the collection of delinquent amounts." Additionally, Barton cited Arizona Supreme Court Rule 31(d) ("Rule 31") and the State Bar of Arizona Unauthorized Practice of Law ("UPL") Advisory Committee Opinion 04-02 as grounds for the complaint to be dismissed.

INVESTIGATION:

CCMC was granted legal document preparer business certification effective July 28, 2003. CCMC has successfully renewed its business certification without interruption through the current certification period which ends on June 30, 2011. Alspaugh was granted individual legal document preparer certification effective December 17, 2007. Alspaugh has successfully renewed her certification without interruption through the current certification period which ends on June 30, 2011. Alspaugh is the designated principal of record for CCMC and is listed with Arizona Corporation Commission

("ACC") as a CCMC director, secretary and treasurer. Vigil was granted individual certification effective July 28, 2003 and her certification has been renewed without interruption through the current certification period which ends on June 30, 2011. Vigil served as the CCMC designated principal of record from July 28, 2003 until June 23, 2008 when Alspaugh became the designated principal.

No provision of law, court rule or ACJA authorizes a certified legal document preparer to act in a representative capacity or to sign documents on behalf of a customer. On May 24, 2010, Director Byers initiated this complaint involving Alspaugh and CCMC to commence an investigation pertaining to unauthorized practice of law issues involving Alspaugh and CCMC staff demonstrated by and through liens prepared for recording with the Maricopa County Recorder's Office. Alspaugh and Vigil, on behalf of CCMC, signed "Notice and Claim of Lien" documents as representatives of CCMC's HOA customers. Both Alspaugh and Vigil list their names, titles and certification numbers on the recorded documents identifying themselves as the certificate holders responsible for preparing the respective documents. However, they failed to include the required identification for the certified business on the documents.

On May 25, 2010, the Division sent a copy of the complaint initiated by Director Byers and copies of the "Notice and Claim of Lien" documents to Alspaugh, CCMC and attorney Barton. A letter sent with the complaint and documentation notified Alspaugh and CCMC of the ACJA § 7-201(H)(3)(c) requirement they provide a written response to the complaint within thirty (30) days.

On June 23, 2010, Barton submitted a written response to the complaint and included a copy of UPL Advisory Opinion 04-02 as well as copies of the contracts CCMC entered into with Coyote Lakes Community Association ("Coyote Lakes") and Power Ranch Community Association ("Power Ranch"). Barton argued CCMC and Alspaugh were in compliance with the rules governing legal document preparers. Barton asserted CCMC's contractual agreements with the HOAs specifically authorized CCMC "to institute legal actions or proceedings for the collection of delinquent amounts." Barton stated, in part:

CCMC is a property management company. As a property manager, CCMC and Ms. Alspaugh become the contractual agents of the community associations they work for. The agreements between CCMC and its communities specifically appoint CCMC as the exclusive "managing agent" for the association, and go on to say that the relationship between the association and CCMC is one of principal and agent.

Barton asserted Alspaugh and CCMC staff signing lien documents as an "Authorized Representative" did not constitute "representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process" as provided for in ACJA § 7-201(J)(5)(b). Barton instead opined "the preparation and signing of liens by property management companies and their employees is authorized by Arizona Supreme Court Rule 31(d)". Barton also stated, in pertinent part:

For obvious reasons, simply signing a legal document as a “representative” of another is not engaging in the practice of law. The Arizona Supreme Court has defined the “practice of law” generally as “those acts, whether performed in court or in the law office, which lawyers customarily have carried on from day to day through the centuries.” *State Bar of Arizona v. Arizona Land Title & Trust Co.*, 90 Ariz. 76, 366 P.2d 1, 9 (1961) (en banc). Signing and recording a lien is not an act customarily performed by lawyers. Rather, liens are typically, and sometimes necessarily, signed and recorded by the individual or entity that is asserting the lien. *See, e.g.*, A.R.S. § 33-993(A) (“The notice and claim of lien shall be made under oath by the claimant or someone with knowledge of the facts...”). And, because entities cannot sign documents themselves, liens are unavoidably signed by an “authorized representative” of the liening entity. Therefore, this act of signing and recording a lien in a representative capacity is not the type of “representation” to which A.C.J.A. § 7-208(J)(5)(b) refers.

Barton cited part of ARS § 33-1807(J) stating “The association shall record in the office of the county recorder in the county in which the planned community is located a notice stating the name of the association or ***designated agent or management company for the association***, the address for the association and the telephone number of the association ***or its designated agent or management company***.” Barton argued nothing in ARS § 33-1807(J) suggested the lien process is a “judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process.”

Regarding Barton’s assertion Rule 31(d) authorizes property management companies to prepare and sign liens, Barton cited the following excerpts of UPL Advisory Opinion 04-02:

In situations in which the management company has broad responsibilities to act on behalf of the owner or the association, it would seem inappropriate to assert that Rule 31(c)(19) [not codified as Rule 31(d)(20)] did not apply, because the management company was preparing the documents for use by a “third party”- the owner of the property – even though the Rule could technically be read to reach such a result. The more appropriate reading of Rule 31, from a public policy perspective, would appear to be that the document is being prepared by the management company and used by the management company in a manner that is incidental to the regular course of its business.

Therefore, a management company with broad responsibilities regarding management of a property or management of an association may prepare legal documents that are incidental to the management of the property (just as the owner would be allowed to do so) pursuant to Rule (c) (19) [now codified as Rule 31(d)(20)].

Barton argued CCMC and Alspaugh could prepare and file lien notices on behalf of the HOAs they work for because of two different exceptions under Rule 31; Rule 31(d)(20)

which allows businesses to prepare documents for their own use; and Rule(d)(24) allowing certified document preparers to prepare legal documents, such as lien notices.

Barton argued CCMC and Alspaugh's actions were "authorized by the Rules of the Arizona Supreme Court as interpreted by the Arizona State Bar," and requested the complaint be dismissed against them based on his arguments.

Division Investigator Karla Clanton ("Investigator Clanton") reviewed the lien notices Alspaugh and CCMC employee Vigil prepared, signed and recorded with the Maricopa County Recorder's Office for the Coyote Lakes and Power Ranch HOAs via the Maricopa County Recorder's Office website.

The document prepared by Alspaugh listed her name at the top and directly underneath Alspaugh listed her AZCLDP title and certification number. CCMC's business name and certification number were not listed on the document. Below Alspaugh's certification number was the statement "At the request of" and HOA Power Ranch name and business address were provided underneath. The signature block on the document reads, "Authorized Representative of POWER RANCH" and Alspaugh signed directly above the reference. Investigator Clanton reviewed numerous other liens notices prepared, signed and recorded by Alspaugh with the Maricopa County Recorder's Office on behalf of Power Ranch and discovered all the documents were prepared in a manner consistent with that described above.

The document prepared by Vigil was prepared in the exact same manner as Alspaugh's lien notice except the HOA referenced was Coyote Lakes. CCMC's business name and certification number were not listed on the document. Vigil's signature was directly above the statement, "Authorized Representative of COYOTE LAKES COMM ASSOC".

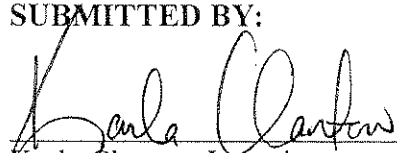
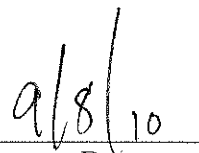
Investigator Clanton reviewed the contracts entered into between CCMC and the Coyote Lakes and Power Ranch HOAs. Both contracts included the following:

Bill, request, demand and receive all Assessments and other Association receipts that may at any time become due the Association. When necessary, and in accordance with any applicable Association policy, Managing Agent is authorized to institute legal actions or proceedings for the collection of delinquent amounts. The Association recognizes and agrees that all efforts to facilitate the collection of delinquent Assessments and other charges are time consuming and an additional expense to the Managing Agent. Accordingly, the Managing Agent will charge a fee as set forth in Exhibit B for its efforts involved in the extra work required for collection of delinquent amounts. Such fee shall be charged in accordance with the adopted collection policy of the Association. Managing Agent agrees to act in conformance with any applicable requirements of laws, statutes and regulations regarding the collection of debts, including the Fair Debt Collection Practices Act.

Investigator Clanton reviewed Arizona Corporation Commission ("ACC") website and noted the officers listed for the CCMC include President/CEO/Director Bart Park, III, President Donald J. Cole, Secretary/Treasurer/Director Judith Alspaugh, Vice-President Stephanie Fee, Director Wendell Pickett, Director Ed Boudreau. Investigator Clanton reviewed the ACC online records for the Power Ranch and Coyote Lakes HOAs. No CCMC officers are named as officers or directors for either HOA. CCMC is the named Statutory Agent for both HOAs.

Division records reflect Alspaugh and Vigil have never applied for or been granted admission to practice law in Arizona.

SUBMITTED BY:

 
Karla Clanton, Investigator Date
Certification and Licensing Division

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE
EVALUATION and DECISION**

CERTIFICATE HOLDER INFORMATION	Certificate Holder:	Judith Alspaugh
	Certification Number:	81016
	Business Name:	Capital Consultants Management Corporation
	Certificate Number:	80418
INVESTIGATION INFORMATION	Type of Certificate/License:	Legal Document Preparer
	Complaint Number:	10-L033
	Investigator:	Karla Clanton

ANALYSIS OF ALLEGATIONS:

Allegation 1. Certified legal document preparers Judith Alspaugh ("Alspaugh") and Capital Consultants Management Corporation ("CCMC") exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a "Notice and Claim of Lien" as the "Authorized Representative" on behalf of CCMC customer Power Ranch Community Association.

Allegation 2. Certified legal document preparer and CCMC employee Jacqueline Vigil ("Vigil"), acting on behalf of CCMC, exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a "Notice and Claim of Lien" prepared on behalf of CCMC customer Coyote Lakes Community Association.

Arizona Supreme Court Rule 31 ("Rule 31") (a)(2)(B) states the "unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice". Arizona Code of Judicial Administration ("ACJA") § 7-208 which governs legal document preparers exists as an exemption to the prohibition of the unauthorized practice of law contained in Rule 31. ACJA § 7-208(F)(1) provides specified, authorized services a certified legal document preparer may offer to consumers not represented by an attorney.

ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) requires all certified legal document preparers to comply with the Code of Conduct contained in ACJA § 7-208(J). The list of "authorized services" a certified legal document preparer can provide to non-represented parties contained in ACJA § 7-208(F)(1) does not include acting in a representative capacity on behalf of a consumer.

ACJA § 7-208(J)(5)(a) states, "A legal document preparer shall perform all duties and discharge all obligations in accordance with applicable laws, rules or court orders."

ACJA § 7-208(J)(5)(b) includes:

A legal document preparer shall not represent they are authorized to practice law in this state, nor shall the legal document preparer provide legal advice or services to another by expressing opinions, either verbal or written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process...

During the investigation of this complaint, numerous recorded documents prepared by Alspaugh and Vigil, on behalf of CCMC for CCMC customers, were reviewed and considered. The reviewed "Notice and Claim of Lien" documents contained Alspaugh or Vigil's signatures as the "Authorized Representative" acting on behalf of CCMC's Homeowner's Association ("HOA") customers.

Through their attorney, David Barton, CCMC acknowledged its active participation in offering and providing litigation and collections related services to the HOA customers, asserting doing so was permissible for certified legal document preparers based on "agency law" established through contractual agreements entered into between CCMC and the respective HOAs, a non-binding Advisory Opinion issued by the State Bar of Arizona Unauthorized Practice of Law Advisory Committee, and the unauthorized practice of law exception contained in Rule 31(d)(20) which reads:

Nothing in these rules shall prohibit the preparation of documents incidental to a regular course of business when the documents are for the use of the business and not made available to third parties.

CCMC, Alspaugh and Vigil are not officers of the respective HOA corporations. Rather, they are offering and providing lien preparation and processing services to third party HOA customers. For this reason, Rule 31(d)(20) is not an applicable exception.

Rule 31(d)(3) reads:

An officer of a corporation or a managing member of a limited liability company who is not an active member of the state bar may represent such entity before a justice court or police court provided that: the entity has specifically authorized such officer or managing member to represent it before such courts; such representation is not the officer's or managing member's primary duty to the entity, but secondary or incidental to other duties relating to the management or operation of the entity; and the entity was an original party to or a first assignee of a conditional sales contract, conveyance, transaction or occurrence that gave rise to the cause of action in such court, and the assignment was not made for a collection purpose.

The Rule 31(d)(3) exception is not applicable because CCMC and its employees are not original parties or first assignees to the debts that gave rise to the causes of action. Further, the contractual assignment of the legal document preparation services to CCMC by the HOAs was specifically for collections purposes.

Similarly, “agency law” does not support or justify members of a regulated profession circumventing or expanding their authority beyond regulatory limitations. No provision of court rule, ACJA, or law authorizes Alspaugh, Vigil or CCMC to act in a representative capacity on behalf of any individual or entity. As with attempting to or establishing prohibited authorities by way of contract, the Board has previously found this premise does not support or justify members of a regulated profession circumventing or expanding their authority beyond regulatory limitations. The State Bar of Arizona Unauthorized Practice of Law Advisory Committee (non-binding) Opinion number 04-02, entitled “Property Management Companies”, does assert that certified legal document preparers may prepare and record lien related documents for third party consumers. The Opinion does not address the issue of or otherwise suggest certified legal document preparers can act as representatives of or sign legal documents on behalf of their third party HOA customers.

A review of Arizona Corporation Commission (“ACC”) records reflects CCMC is the named Statutory Agent for the Power Ranch and Coyote Lakes Community Associations. ACC records for these HOAs confirmed no officer or partner of CCMC have been appointed as officers of these HOAs. Therefore, Allegations 1 and 2 are substantiated.

Allegation 3. Alspaugh failed to place CCMC’s business name, title and certification number on numerous “Notice and Claim of Lien” documents prepared and recorded with the Maricopa County Recorder’s Office, as required by ACJA § 7-208(F)(3).

ACJA § 7-208(F)(3) states:

Beginning July 1, 2003, a certified legal document preparer shall include the legal document preparer’s name, the title “Arizona Certified Legal Document Preparer” or the abbreviation “AZCLDP” and the legal document preparer’s certificate number on all documents prepared by the legal document preparer, unless expressly prohibited by a non-judicial agency or entity. A legal document preparer providing services on behalf of a certified business entity shall also include the business entity name and certificate number on all documents prepared, unless expressly prohibited by a non-judicial agency or entity. The legal document preparer shall also provide their name, title and certificate number to any person upon request.

No law, rule or policy expressly prohibits a certified legal document preparer from placing their name, title or certificate number on documents prepared for recording with the Maricopa County Recorder’s Office. Numerous “Notice and Claim of Lien” documents Alspaugh prepared for CCMC customers for recording with the Maricopa County Recorder’s Office included Alspaugh’s legal document preparer information, identifying Alspaugh as the individual responsible for preparing the documents but failed to contain CCMC’s name, title and certification number as required by ACJA § 7-208(F)(3). Therefore, Allegation 3 is substantiated.

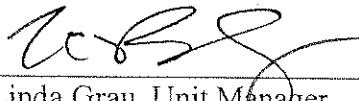
Allegation 4. Alspaugh failed to fulfill her responsibilities as designated principal to ensure CCMC employees were acting in compliance with Arizona Supreme Court Rule 31, ACJA § 7-201 and § 7-208.

ACJA § 7-208(F)(6)(c) states the designated principal of a certified business entity shall:
Actively and directly supervise all other certified legal document preparers,
subsection (F)(5) trainees, and staff working for the certified business entity.

ACJA § 7-208(J)(5)(a) states, "A legal document preparer shall perform all duties and discharges all obligations in accordance with applicable laws, rules or court orders."

By agreeing to serve as the designated principal for CCMC, Alspaugh accepted personal professional responsibility for CCMC and CCMC employees acting in compliance with all laws, rules and orders governing legal document preparers. Under Alspaugh's active and direct supervision, CCMC employee Vigil signed liens as an "Authorized Representative" of the Coyotes Lake Community Association in violation of Rule 31 and ACJA § 7-208(J)(5)(b) and failed to place the CCMC name, title and certification number on documents she prepared for CCMC consumers in violation of ACJA § 7-208(F)(3). Therefore, Allegation 4 is substantiated.

SUBMITTED BY:

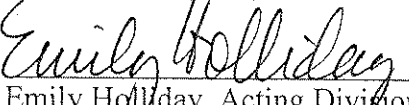
 2/11/11

Linda Grau, Unit Manager Date
Certification and Licensing Division

REFERRAL TO PROBABLE CAUSE EVALUATOR:

The Investigation Summary and Allegation Analysis Report on complaint number 10-L033 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause exists.

SUBMITTED BY:

 2/11/11

Emily Holliday, Acting Division Director Date
Certification and Licensing Division

DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 10-L033, the Probable Cause Evaluator:

- ☐ requests division staff to investigate further.
- ☐ determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

[] determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):

#1, 2, 3 + 4.

Mike Baumstark 2/18/11

Mike Baumstark

Date

Probable Cause Evaluator

(Alspaugh/CCMC 10-L033)

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ORDER OF THE BOARD**

<i>CERTIFICATE HOLDER INFORMATION</i>	Certificate Holder:	Judith Alspaugh
	Certificate Number:	81016
	Business Name:	Capital Consultants Management Corporation
	Certificate Number:	80418

**RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS
("BOARD"):**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Judith Alspaugh ("Alspaugh") and Capital Consultants Management Corporation ("CCMC") committed the alleged acts of misconduct detailed in the Investigation Summary and Allegation Analysis Report in complaint number 10-L033.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2), (F)(3), (F)(6)(c), (J)(5)(a) and (J)(5)(b).

Mitigating Factor:

1. Absence of prior discipline. This is the first complaint involving Alspaugh and CCMC. [ACJA § 7-201(H)(22)(b)(1)(a)]

Aggravating Factors:

None noted.

Proportionality Analysis:

The stated purpose of the Legal Document Preparer Program, as defined by ACJA § 7-208 (C), is to:

Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules.

Historically, the Board has recognized engaging in the unauthorized practice of law by acting in a representative capacity on behalf of a consumer as a serious matter and a threat to the protection of the public with recognition of the potential harm to the public, judicial system, and document preparer profession. Prior actions by the Board in other

matters which found violations similar to the alleged act of misconduct have included revocation or suspension of certification, restitution and cease and desist orders, imposition of civil penalties and assessment of investigative costs and the related proceedings, mandated participation in continuing education, and stated conditions for reinstatement.


In determining the appropriate disposition in this case, it is recommended the Board consider the cited mitigating factor. Therefore, it is recommended the Board offer CCMC and Alspaugh a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It is recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to CCMC and Alspaugh that if they enter a Consent Agreement, they waive their right to a hearing, and impose the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

- a) Issue a Censure to Alspaugh, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
- b) Order Alspaugh participate in no less than five (5) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal within (60) days following the entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(f);
- c) Issue a Censure to CCMC, pursuant to ACJA § 7-201(H)(24)(a)(6)(b);
- d) Place CCMC on probation for a period of not less than six months pursuant to ACJA § 7-201(H)(24)(a)(6)(e) with the following conditions:
 - i. CCMC shall immediately and hence forth cease and desist from offering or providing any legal services that exceed the authorities of a certified legal document preparer or otherwise constitute the unauthorized practice of law; including any and all contractual service agreements, pursuant to ACJA § 7-201(H)(24)(a)(6)(g).
 - ii. No later than sixty (60) days following the entry of the Board's Final Order, CCMC shall develop and implement policies and procedures necessary to ensure no member of the CCMC staff, its officers, or any others acting on behalf of the business entity are engaging in the unauthorized practice of law. A copy of the written policies and procedures shall be submitted to the Certification and Licensing Division ("Division").
 - iii. CCMC and Alspaugh shall submit to the Division an updated and comprehensive list of any and all individuals providing legal document preparation services on behalf of the certified business entity within fifteen (15) days following entry of the Board's Final Order. The list shall identify the certification status of each individual and identify, if applicable, whether each individual is an ACJA § 7-208(F)(5) trainee along with the date the trainee meets the minimum eligibility requirement to apply for individual certification.
- e) CCMC shall be assessed costs associated with the investigation and any related disciplinary proceedings and shall remit the payment of the assessed costs no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j).

- f) CCMC shall be assessed a civil penalty in the amount of \$250.00 per found violation and shall remit the payment of the civil penalty no later than sixty (60) days following entry of the Board's Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event CCMC and Alspaugh decline the opportunity to enter a Consent Agreement within twenty (20) days of receipt of the Board's offer, it is recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

SUBMITTED BY:


Emily Holliday, Acting Division Director Date
Certification and Licensing Division

FINAL DECISION AND ORDER:

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 10-L033 and Judith Alspaugh, certificate number 81016, and Capital Consultants Management Corporation, certificate number 80418, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

☐ requests division staff to investigate further.

☐ refers the complaint to another entity with jurisdiction.

Referral to: _____

☐ dismisses the complaint, and:

☐ requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).

☐ requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).

☐ determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:

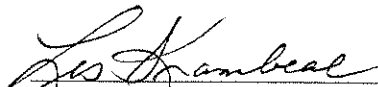
☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.

- ☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).
- ☐ requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).
- ☐ orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).
- ☐ enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: _____

☒ adopts the recommendations of the Division Director.

☐ does not adopt the recommendations of the Division Director and orders:

 04.25.11

Les Krambeal, Chair Date
Board of Legal Document Preparers

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

2) REVIEW OF PENDING COMPLAINTS

2-E: *Review, discussion and possible action regarding a proposed Consent Agreement resolution of the pending formal disciplinary action in complaint number 10-L028 involving certificate holder Jacqueline Vigil.*

On April 25, 2011, the Board reviewed the attached Investigation Summary and Probable Cause Determination and entered the attached Order. The attached proposed Consent Agreement has been entered by the certificate holder. Page 3, paragraph 6 (language previously approved by the Board in another unrelated matter) has been added to the Consent Agreement. Division staff recommends the Board enter the proposed Consent Agreement and authorize the Chair to sign the document on behalf of the full Board.

1
2
3 **ARIZONA SUPREME COURT**
4 **BOARD OF LEGAL DOCUMENT PREPARERS**

5 IN THE MATTER OF CERTIFIED
6 LEGAL DOCUMENT PREPARERS:

NO. 10-L028

7 JACQUELINE VIGIL,
8 Certificate Number 80387

9
10 **CONSENT AGREEMENT**

11 **JURISDICTION**

12 Pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201 and ACJA
13 § 7-208, the Board of Legal Document Preparers ("Board") has jurisdiction over this
14 matter as Jacqueline Vigil ("Vigil") is a certified legal document preparer. On May 24,
15 2010, Administrative Office of the Courts Director David K. Byers initiated complaint
16 number 10-L028 pursuant to ACJA § 7-201(H)(1)(b). The initiated complaint contained
17 three allegations for investigation by the Certification and Licensing Division
18 ("Division"). Allegation 1 alleged Vigil exceeded the authority of a certified legal
19 document preparer and engaged in the unauthorized practice of law by signing a "Notice
20 and Claim of Lien" as the "Authorized Representative" for the Coyote Lakes Community
21 Association. Allegation 2 alleged Vigil failed to provide the Division with a written
22 response to the complaint within thirty days of notification of the complaint, as required
23 by ACJA § 7-201(H)(3)(c). Allegation 3 alleged Vigil failed to place Capital Consultant
24 Management Corporation ("CCMC") business name, title and certification number on
25 numerous "Notice and Claim of Lien" documents she prepared and recorded with the
26 Maricopa County Recorder's Office, as required by ACJA § 7-208(F)(3). The allegations

1 were investigated and on February 18, 2011, Probable Cause Evaluator Mike Baumstark
2 entered a finding probable cause exists in complaint number 10-L028.

3 On April 25, 2011, the Board accepted the finding of the Probable Cause Evaluator
4 and entered a finding grounds for formal disciplinary action exists in complaint number
5 10-L028 pursuant to ACJA § 7-201(H)(6)(a) and (H)(6)(k)(3) for acts of misconduct
6 involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and (H)(3)(c),
7 ACJA § 7-208(F)(2), (F)(3), (J)(5)(c), (J)(5)(a) and (J)(5)(b). The Board further ordered
8 this Consent Agreement resolution of the formal disciplinary action be offered to Vigil in
9 advance of the filing of a Notice of Formal Statement of Charges.

10 By entering this Consent Agreement, Vigil understands she waives her right to
11 hearing regarding complaint number 10-L028 and agree to the following Consent
12 Agreement provisions pursuant to ACJA § 7-201(H)(24)(a)(6):

13 1. The Board finds misconduct and Vigil acknowledges and accept responsibility for
14 the found misconduct detailed in the Investigation Summary, Allegation Analysis and
15 probably Cause Determination Report and Board Order issued in complaint number 10-
16 L028.

17 2. The Board will issue a Letter of Concern to Vigil, pursuant to ACJA § 7-
18 201(H)(24)(a)(6)(a).

19 3. The Board orders and Vigil agrees to participate in no less than three (3) hours of
20 continuing education in the curriculum areas of professional responsibility, ethics, and the
21 unauthorized practice of law, in addition to any hours otherwise required for renewal, in
22 order to be considered for active certification any point in the future, pursuant to ACJA §
23 7-201(H)(24)(a)(6)(f).

24 4. The Board assesses and Vigil agrees to pay costs associated with the investigation
25 and disciplinary proceedings in the amount of \$161.61, pursuant to ACJA § 7-
26 201(H)(24)(a)(6)(j). Vigil shall remit the assessed to the Certification and Licensing

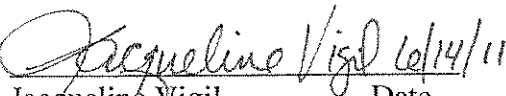
1 Division, 1501 West Washington, Suite 104 Phoenix, Arizona, 85007, made payable to
2 the "Arizona Supreme Court" within 60 days of the board's entry into this Consent
3 Agreement.

4 5. Vigil understands failure to comply with the terms of this Consent Agreement may
5 result in the Board taking further disciplinary action or denying renewal of certification.

6 6. The Board and Vigil recognize that conceivably there could be additional
7 complaints against Vigil relating to the same or substantially the same conduct of
8 categories of conduct as set forth in the Investigative Report and the Consent Agreement,
9 including, but not limited to preparing, filing or recording documents, which occurred
10 during the time Vigil was a Certified Legal Document Preparer but prior to the date of this
11 Consent Agreement, and that this Consent Agreement and the resolution herein are
12 intended to resolve any and all such matters involving the same or similar categories of
13 conduct. Additionally, should the Certification and Licensing Division receive a
14 complaint in the future pertaining to other conduct in which Vigil engaged during the time
15 she was a Certified Legal Document Preparer through the date of this Consent Agreement,
16 this Consent Agreement shall be deemed a significant mitigating factor pursuant to ACJA
17 § 7-201(H)(22)(b)(1).

18 Entered into on this date by:

Entered into on this date by:

19 
20 Jacqueline Vigil Date
21 Certificate Number 80387

Les Krambeal, Chair Date
Board of Legal Document Preparers

1 An original copy of the foregoing hand delivered and/or mailed this _____ day of
2 _____, 2011, to:

3
4
5 Jacqueline Vigil

6
7 Krystal Aspey
8 Quarles & Brady
9 2 North Central Avenue
10 Phoenix, Arizona 85004

11 Rex Nowlan
12 Administrative Law Section
13 Arizona Attorney General's office
14 15 South 15th Avenue
15 Phoenix, Arizona 85007

16 Nina Preston, Assistant Counsel
17 Administrative Office of the Court
18 1501 West Washington
19 Phoenix, Arizona 8507

20 Certification and Licensing Division
21 Arizona Supreme Court
22 1501 West Washington, suite 104
23 Phoenix, Arizona 85007

24 By: _____
25 Debbie MacDougall, Programs Specialist
26 Certification and Licensing Division

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY**

CERTIFICATE HOLDER INFORMATION	Certificate Holder:	Jacqueline Vigil
	Certification Number:	80387
	Type of Certificate/License	Legal Document Preparer
COMPLAINANT	Name:	David Byers, Administrative Director of the Courts
INVESTIGATION INFORMATION	Complaint Number:	10-L028
	Investigator:	Karla Clanton
	Complaint Received:	May 24, 2010
	Complaint Forwarded to the Certificate Holder:	May 25, 2010
	Response From Certificate Holder Received:	None Received
	Report Date:	September 14, 2010

The investigation of this complaint included the following:

- Written complaint initiated by Administrative Director of the Courts David Byers ("Director Byers")
- Review of applicable Certification and Licensing Division ("Division") records
- Review of applicable sections of Arizona Revised Statutes ("ARS"), Arizona Codes of Judicial Administration ("ACJA") § 7-201 and § 7-208, and Arizona Supreme Court Rules

ALLEGATION ALLEGED BY COMPLAINANT:

1. Certified legal document preparer Jacqueline Vigil ("Vigil") exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a "Notice and Claim of Lien" as the "Authorized Representative" for the Coyote Lakes Community Association ("Coyote Lakes").

ADDITIONAL ALLEGATIONS:

2. Vigil failed to provide the Division with a written response to the complaint within thirty days of notification of the complaint, as required by ACJA § 7-201(H)(3)(c).
3. Vigil failed to place Capital Consultant Management Corporation ("CCMC") business name, title and certification number on numerous "Notice and Claim of Lien" documents she prepared and recorded with the Maricopa County Recorder's Office, as required by ACJA § 7-208(F)(3).

SUMMARY OF INVESTIGATION:

On May 24, 2010, Director Byers initiated a complaint involving Vigil regarding an unauthorized practice of law issue presented in a "Notice and Claim of Lien" document Vigil prepared for recording with the Maricopa County Recorder's Office. Vigil, in her capacity as a Capital Consultants Management Corporation ("CCMC") employee, signed the lien document as an "Authorized Representative" of CCMC's HOA customer Coyote Lakes.

Vigil failed to provide Division with a written response to the complaint within thirty days of notification of the complaint, as required by ACJA § 7-201(H)(3)(c).

INVESTIGATION:

Vigil was granted individual legal document preparer certification effective July 28, 2003. Vigil has successfully renewed her certification without interruption and her certification is active through the current certification period which ends on June 30, 2011. Vigil's employer, CCMC, was granted legal document preparer business certification effective July 28, 2003. CCMC has successfully renewed its business certification without interruption through the current certification period which ends on June 30, 2011. Vigil was the designated principal of CCMC from July 28, 2003 until June 23, 2008.

On May 24, 2010, Director Byers initiated a complaint involving Vigil regarding an unauthorized practice of law issue presented in a "Notice and Claim of Lien" document Vigil prepared for recording with the Maricopa County Recorder's Office. Vigil, in her capacity as a CCMC employee, signed the lien document as an "Authorized Representative" of CCMC's HOA customer Coyote Lakes.

On May 25, 2010, the Division faxed and mailed Vigil a copy of the complaint along with a letter notifying Vigil of the ACJA § 7-201(H)(3)(c) requirement she provide a written response to the complaint within thirty (30) days. Division records reflect Vigil signed for the mailing on June 1, 2010.

Vigil failed to provide Division with a written response to the complaint within thirty days of notification as required per ACJA § 7-201(H)(3)(c).

On September 13, 2010, Division Investigator Karla Clanton ("Investigator Clanton") reviewed Notice and Claim of Lien #45-0000 1043 01 Vigil prepared, signed and recorded with the Maricopa County Recorder's Office ("Recorder's") for the Coyote Lakes HOA via the Recorder's website. The document listed Vigil's name, title and certification number in the upper left hand side of the document identifying Vigil as the legal document preparer responsible for the document. CCMC's business name, title and certification number were not listed on the document. Below Vigil's certification identification information is the statement, "At the request of" and provides HOA Coyote Lakes name and business address. The signature block on the document reads, "Authorized Representative of COYOTE LAKES COMM ASSOC," and Vigil signed the

document on behalf of the HOA. Investigator Clanton reviewed numerous other notices prepared, signed and recorded by Vigil with the Recorder's on behalf of Coyote Lakes and discovered all the documents were prepared in a manner consistent with that described above. Investigator Clanton reviewed ACJA § 7-201(H)(3)(c) which states:

The certificate holder shall provide a written response to the complaint within thirty days of the notification of the complaint. The board shall not proceed with disciplinary action without providing the certificate holder the complaint and an opportunity to respond to the complaint, except in a matter regarding an emergency suspension pursuant to subsection (H)(9)(d). Failure by the certificate holder to accept notification of a complaint or failure to respond to the complaint shall not prevent division staff from proceeding with an investigation and the board from taking any disciplinary action.

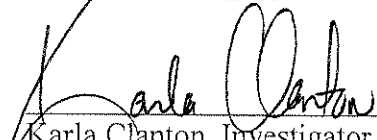
Investigator Clanton reviewed ACJA § 7-208(F)(3) which reads:

Beginning July 1, 2003, a certified legal document preparer shall include the legal document preparer's name, the title "Arizona Certified Legal Document Preparer" or the abbreviation "AZCLDP" and the legal document preparer's certificate number on all documents prepared by the legal document preparer, unless expressly prohibited by a non-judicial agency or entity. A legal document preparer providing services on behalf of a certified business entity shall also include the business entity name and certificate number on all documents prepared, unless expressly prohibited by a non-judicial agency or entity. The legal document preparer shall also provide their name, title and certificate number to any person upon request.

Investigator Clanton reviewed Arizona Corporation Commission ("ACC") website and noted the officers listed for the CCMC include President/CEO/Director Bart Park, III, President Donald J. Cole, Secretary/Treasurer/Director Judith Alspaugh, Vice-President Stephanie Fee, Director Wendell Pickett, Director Ed Boudreau. Investigator Clanton reviewed the ACC online records for the Coyote Lakes HOA. No CCMC officers are named as officers or directors for either HOA. CCMC is the named Statutory Agent for both HOAs.

Available records reflect Vigil is not an officer or director of Coyote Lakes and Division records reflect Vigil has never applied for or been granted admission to practice law in Arizona.

SUBMITTED BY:

 9/14/10
Karla Clanton, Investigator Date
Certification and Licensing Division

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ALLEGATION ANALYSIS REPORT and PROBABLE CAUSE
EVALUATION and DECISION**

CERTIFICATE HOLDER INFORMATION	Certificate Holder:	Jacqueline Vigil
	Certification Number:	80387
	Type of Certificate/License:	Legal Document Preparer
INVESTIGATION INFORMATION	Complaint Number:	10-L028
	Investigator:	Karla Clanton

ANALYSIS OF ALLEGATIONS:

Allegation 1. Certified legal document preparer Jacqueline Vigil ("Vigil") exceeded the authority of a certified legal document preparer and engaged in the unauthorized practice of law by signing a "Notice and Claim of Lien" as the "Authorized Representative" for the Coyote Lakes Community Association ("Coyote Lakes").

Arizona Supreme Court Rule 31 ("Rule 31") (a)(2)(B) states the "unauthorized practice of law includes but is not limited to engaging in the practice of law by persons or entities not authorized to practice". Arizona Code of Judicial Administration ("ACJA") § 7-208 which governs legal document preparers exists as an exemption to the prohibition of the unauthorized practice of law contained in Rule 31. ACJA § 7-208(F)(1) provides specified, authorized services a certified legal document preparer may offer to consumers not represented by an attorney.

The list of "authorized services" a certified legal document preparer can provide to non-represented parties contained in ACJA § 7-208(F)(1) does not include acting in a representative capacity on behalf of a consumer.

ACJA § 7-201(F)(1) and ACJA § 7-208(F)(2) requires all certified legal document preparers to comply with the Code of Conduct contained in ACJA § 7-208(J). ACJA § 7-208(J)(5)(a) states, "A legal document preparer shall perform all duties and discharge all obligations in accordance with applicable laws, rules or court orders."

ACJA § 7-208(J)(5)(b) includes:

A legal document preparer shall not represent they are authorized to practice law in this state, nor shall the legal document preparer provide legal advice or services to another by expressing opinions, either verbal or written, or by representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process...

During the investigation of this complaint, numerous recorded documents which were prepared and signed by Vigil were reviewed and considered. The reviewed lien documents all identified Vigil as acting in a representative capacity for Coyote Lakes. Coyote Lakes is an HOA customer of Vigil's employer, certified legal document preparer

business entity Capital Consultants Management Corporation ("CCMC"). Arizona Corporation Commission ("ACC") records reflect CCMC is the named Statutory Agent for the Coyote Lake but neither Vigil nor any of the CCMC officers or directors are named officers or directors of Coyote Lakes. No provision of court rule, ACJA, or law authorizes Vigil to act in a representative capacity on behalf of any individual or entity. Therefore, Allegation 1 is substantiated.

Allegation 2. Vigil failed to provide the Certification and Licensing Division ("Division") with a written response to the complaint within thirty days of notification of the complaint, as required by ACJA § 7-201(H)(3)(c).

ACJA § 7-201(H)(3)(c) which states:

The certificate holder shall provide a written response to the complaint within thirty days of the notification of the complaint. The board shall not proceed with disciplinary action without providing the certificate holder the complaint and an opportunity to respond to the complaint, except in a matter regarding an emergency suspension pursuant to subsection (H)(9)(d). Failure by the certificate holder to accept notification of a complaint or failure to respond to the complaint shall not prevent division staff from proceeding with an investigation and the board from taking any disciplinary action.

Division records reflect Vigil failed to provide a written response to the complaint. Therefore, Allegation 2 is substantiated.


Allegation 3. Vigil failed to place CCMC's name, title and certification number on numerous "Notice and Claim of Lien" documents she prepared and recorded with the Maricopa County Recorder's Office, as required by ACJA § 7-208(F)(3).

ACJA § 7-208(F)(3) states:

Beginning July 1, 2003, a certified legal document preparer shall include the legal document preparer's name, the title "Arizona Certified Legal Document Preparer" or the abbreviation "AZCLDP" and the legal document preparer's certificate number on all documents prepared by the legal document preparer, unless expressly prohibited by a non-judicial agency or entity. A legal document preparer providing services on behalf of a certified business entity shall also include the business entity name and certificate number on all documents prepared, unless expressly prohibited by a non-judicial agency or entity. The legal document preparer shall also provide their name, title and certificate number to any person upon request.

No law, rule or policy expressly prohibits a certified legal document preparer from placing their name, title or certificate number on documents prepared for recording with the Maricopa County Recorder's Office. Numerous "Notice and Claim of Lien" documents Vigil prepared for CCMC customers for recording with the Maricopa County Recorder's Office included Vigil's legal document preparer information, identifying Vigil as the individual responsible for preparing the documents but failed to contain CCMC's name, title and certification number as required by ACJA § 7-208(F)(3). Therefore, Allegation 3 is substantiated.

SUBMITTED BY:

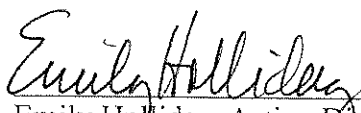
 2-11-11

Linda Grau, Unit Manager Date
Certification and Licensing Division

REFERRAL TO PROBABLE CAUSE EVALUATOR:

The Investigation Summary and Allegation Analysis Report on complaint number 10-L028 have been reviewed and approved for forwarding to the Probable Cause Evaluator and it is recommended the Probable Cause Evaluator enter a finding probable cause exists.

SUBMITTED BY:

 2/11/11

Emily Holliday, Acting Division Director Date
Certification and Licensing Division


DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number 10-L028, the Probable Cause Evaluator:

- ☐ requests division staff to investigate further.
- ☐ determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

- ☒ determines probable cause exists the certificate holder committed the alleged acts of misconduct as to Allegation(s):

#1, 2, & 3.

 2/18/11

Mike Baumstark Date
Probable Cause Evaluator

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ORDER OF THE BOARD**

***CERTIFICATE
HOLDER
INFORMATION***

Certificate Holder:	Jacqueline Vigil
Certificate Number:	80387

**RECOMMENDATION TO THE BOARD OF LEGAL DOCUMENT PREPARERS
("BOARD"):**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Jacqueline Vigil committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 10-L028.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) and (H)(6)(k)(3) for an acts of misconduct involving Arizona Supreme Court Rule 31(a)(2)(B), ACJA § 7-201(F)(1) and (H)(3)(c), ACJA § 7-208(F)(2), (F)(3), (J)(5)(a) and (J)(5)(b).

Mitigating Factor:

1. Absence of prior discipline. This is the first complaint involving Vigil. [ACJA § 7-201(H)(22)(b)(1)(a)]

Aggravating Factors:

None noted.

Proportionality Analysis:

The stated purpose of the Legal Document Preparer Program, as defined by ACJA § 7-208 (C), is to:

Protect the public through the certification of legal document preparers to ensure conformance to the highest ethical standards and performance of responsibilities in a professional and competent manner, in accordance with all applicable statutes, code sections, and Arizona court rules.

Historically, the Board has recognized engaging in the unauthorized practice of law by acting in a representative capacity on behalf of a consumer as a serious matter and a threat to the protection of the public with recognition of the potential harm to the public, judicial system, and document preparer profession. Prior actions by the Board in other matters which found violations similar to the alleged act of misconduct have included revocation or suspension of certification, restitution and cease and desist orders,

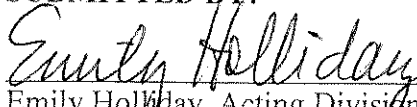
imposition of civil penalties and assessment of investigative costs and the related proceedings, mandated participation in continuing education, and stated conditions for reinstatement. In matters involving employees of property management companies or individuals engaging in similar violations, the Board has offered and entered Consent Agreement resolutions of the complaints in a manner consistent with the recommendation below. (See Martin, Schmit and Heffron.)

In determining the appropriate disposition in this case, it is recommended the Board consider the cited mitigating factor and also that in this case, although there was the potential for harm to the public, no actual harm occurred. Therefore, it is recommended the Board offer Vigil a Consent Agreement to resolve this complaint, pursuant to ACJA § 7-201(H)(24)(a)(6)(c). It is recommended the proposed Consent Agreement include an acknowledgement of the misconduct, a statement giving notice to Vigil that if she enters the Consent Agreement she waives her right to a hearing, and imposes the following sanctions pursuant to ACJA § 7-201 (H)(24)(a)(6):

- a) Issue a Censure to Vigil, pursuant to ACJA § 7-201 (H)(24)(a)(6)(b);
- b) Order Vigil participate in no less than three (3) hours of continuing education in the curriculum areas of professional responsibility, ethics, and the unauthorized practice of law, in addition to any hours otherwise required for renewal, pursuant to ACJA § 7-201 (H)(24)(a)(6)(f);
- c) Impose civil penalties in the amount of \$250.00 per found violation to be remitted no later than 60 days following entry of the Board's Final Order, pursuant to ACJA § 7-201 (H)(24)(a)(6)(k).

In the event Vigil declines the opportunity to enter the Consent Agreement within 20 days of receipt of the Board's offer, it is recommended the matter proceed with the filing and service of Notice of Formal Statement of Charges pursuant to ACJA § 7-201(H)(10) without further Board order.

SUBMITTED BY:

 2/24/11
Emily Holliday, Acting Division Director Date
Certification and Licensing Division

FINAL DECISION AND ORDER:

The Board having reviewed the above Investigation Summary, Allegation Analysis Report, finding of the Probable Cause Evaluator, and Recommendation regarding complaint number 10-L028 and Jacqueline Vigil, certificate number 80387, makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

- ☐ requests division staff to investigate further.
- ☐ refers the complaint to another entity with jurisdiction.

Referral to: _____

- ☐ dismisses the complaint, and:
- ☐ requests division staff prepare a notice of dismissal pursuant to ACJA § 7-201(H)(5)(c)(1).
 - ☐ requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).
- ☐ determines grounds for discipline exist demonstrating the certificate holder committed the alleged act(s) of misconduct and:
- ☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.
 - ☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).
- ☐ requests the certificate holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).
- ☐ orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).
- ☐ enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the certificate and sets an expedited hearing for:

Date, Time, and Location: _____

- ☐ adopts the recommendations of the Division Director.
- ☒ does ~~not~~ adopt the recommendations of the Division Director and orders:

Assessment of costs of the investigation and
related disciplinary proceedings in addition
to the recommended sanctions.

Les Krambeal 04.25.11
Les Krambeal, Chair Date
Board of Legal Document Preparers

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary – July 25, 2011

3) ADMINISTRATIVE ISSUES

3-A: Report regarding the pending Petition to Amend Rule 31 to include an unauthorized practice of law exception regarding property management companies.

Staff will provide a verbal report regarding the status of the Petition to Amend Rule 31.

The original petition, amended petition and all the comments filed by all the interested parties in this matter can be viewed at:

<http://azdnn.dnnmax.com/AZSupremeCourtMain/AZCourtRulesMain/CourtRulesForumMain/CourtRulesForum/tabid/91/view/topic/postid/1323/ptarget/1444/Default.aspx>

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

4) INITIAL CERTIFICATION APPLICATIONS

4-A: *Review, discussion and possible action regarding the following pending applicants for 2011-2013 certification.*

The following applications remain incomplete pending receipt of additional information. It is tentatively recommended these applicants be deferred to the September meeting. In the event the anticipated information/documentation is received prior to the July meeting, an alternative verbal recommendation will be presented at the meeting:

1. Veronica Rolley
2. Krystina J. Ehrlich
3. Sally Robinson-Burke
4. Sandra L. Place
5. Marius Cailean
6. Juan Torres
7. Jennifer Hazlett
8. Sylvia C. Moreno, PC (Sylvia Moreno)
9. Arizona Document Services, LLC (Rae MacLean)
10. Hispano America Immigration Services, LLC (Martha Barraza)
11. Paralegal In Motion, LLC (Jeannie N. Collins)
12. Docuprep Solution, LLC (Cassandra J. Wagner)
13. Wellth Life, LLC (Carissa Olson)

The following applications were received and processed for Board review:

14. Alison N. Torba – Applicant disclosed being involved in several civil actions and being terminated from employment. See enclosed. **It is recommended the Board grant standard certification.**
15. Jimmie E. Cannon – Applicant answered “yes” to the following questions on his application:
 1. Have you ever committed any act constituting material misrepresentation, omission, fraud, dishonesty or corruption in business or financial matters?
 2. Have you ever had conduct showing incompetence or source of injury and loss to the public?
 3. Have you ever had a professional or occupational license or certificate denied, revoked, suspended or any disciplinary action taken?
 4. Have you ever had a professional or occupational license or certificate censured, placed on probation, or any disciplinary action taken?
 5. Have you ever been or currently a party in a civil lawsuit?

Applicant disclosed the following:

1. Disbarred from the California State Bar on April 25, 1988.
2. State Bar of Arizona complaint for Unauthorized Practice of Law.
3. IRS claim against him for additional 1982 and 1983 Federal Income Taxes

See enclosed application and documentation.

It is recommended the Board deny the applicant standard certification pursuant to ACJA 7-201 (E)(2)(c)(2)(b)(ii) has committed material misrepresentation, omission, fraud, dishonesty or corruption in business or financial matters; ACJA 7-201 (E)(2)(c)(2)(b)(vi) has a denial, revocation, suspension or any disciplinary action of any professional or occupational license or certificate; and ACJA 7-201 (E)(2)(c)(2)(b)(vii) has a censure, probation or any other disciplinary action of any professional or occupational license or certificate by other licensing or regulatory entities if the underlying conduct is relevant to the certification sought.

16. AZTec Documents (Mitchell R. Varbel) – Applicant disclosed being arrested July 15, 1977 by the Maricopa Sheriff Department for vehicle manslaughter and received probation for one year. On February 5, 1980, the applicant was arrested by the Scottsdale Police Department for possession of cocaine; was found guilty and received 3 years probation and probation was discharged. On December 3, 1980, the applicant was arrested for possession of narcotics, however, no further information was provided by the applicant as the case was purged. On January 9, 2000, the applicant was arrested for DUI, served one day in jail and paid fine. Also, the applicant disclosed being involved in an ongoing civil action regarding an election fraud.

At the February 28, 2011, Board meeting, the Board deferred consideration of the business entity and requested information from legal counsel. At the April 25, 2011, Board meeting the Board received legal advice from Nina Preston and deferred the application. At the June 27, 2011, Board meeting the Board deferred consideration. **It is recommended the Board go into executive session to receive information that is confidential by court rule.**

BOARD OF LEGAL DOCUMENT PREPARERS

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4) INITIAL CERTIFICATION APPLICATIONS

4-B: Review of Business Entity Exemption Request for the 2011-2013 initial certification period:

It is recommended the following Business Entity Exemption be deferred until the September 2011 meeting:

1. Sylvia C. Moreno, PC (Sylvia Moreno)
2. Hispano America Immigration Services, LLC (Martha Barraza)
3. Paralegal In Motion, LLC (Jeannie N. Collins)
4. Docuprep Solution, LLC (Cassandra J. Wagner)

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5) RENEWAL CERTIFICATION APPLICATIONS

5-A: *Review, discussion, and possible action regarding the following pending applications for renewal of certification:*

The following certificate holders have submitted applications for renewal of standard certification. The applications are complete, no information has been presented during a background review which is contrary to standard certification being granted and the certificate holders have demonstrated they meet the minimum eligibility requirements for standard certification. It is recommended renewal of standard certification be granted to the following individuals:

1. Lauri Anderson
2. Laura Atwood
3. Loray Bassani
4. Marley Beard
5. Sheri Bell
6. Peteris Berzins
7. Susan Beyette
8. Roger Binyon
9. Mary Carlton
10. Elaine Carlton
11. Aldo Castaneda
12. Jeannie Collins
13. Deborah Colon-Mateo
14. Rebecca Cruz
15. Edward Daily
16. Marcie Davies
17. Dan Davis
18. Roberta Dawson
19. Daniel Dawson
20. John Dawson
21. Kellie DiCarlo
22. Angela Eastlack
23. Michelle Esslinger
24. Jeffery Esslinger
25. Emil Estopare
26. Jean Farrell
27. Yesenia Feliciano
28. Cynthia Felton
29. Myra Ferrell-Womochil
30. Valerie Fishgold

31. Patricia Flores
32. Christopher Fortier
33. Susan Fuquay
34. Scott Gamboa
35. Patricia Garvin
36. David Goodman
37. Carla Gould
38. Jennifer Hammans
39. Elizabeth Harrison
40. Jennette Heath
41. David Hendrickson
42. Christopher Hill
43. Linda Hill
44. Diane Hobson
45. Christopher Hoyt
46. David Hoyt
47. James Jenkins
48. Nannette Jones
49. Dawn Kaiser
50. Penny King
51. Mary Kortsen
52. Katherine Kredit
53. Jeanne Kuisle
54. Brian Lincks
55. Donald Lincoln
56. Tiffany Lloyd
57. Michael Mahoney
58. Jeanne Malys
59. Dawn Martin
60. Allen Merrill
61. Darlene Merrill
62. Nadia Meza
63. Brent Miller
64. Deborah Mojica
65. Pamela Moore De Gamboa
66. Sylvia Moreno
67. Marlene Morton
68. Brook Murray
69. Marcia Nolan-Malsack
70. Bonnie Ogden
71. Michael Olsen
72. Andrea Parisi
73. Nikki Parker
74. Samantha Philpot
75. Melinda Pierce
76. Vellia Pina

77. Aida Pompa
78. Lolita Prescod
79. John Price
80. Mary Jo Randall
81. Ronald Reed
82. JoAnn Regan
83. Arlene Rheinfelder
84. John Roads
85. Susan Roads
86. Michael Roberson
87. Nicole Roberson
88. Mary Rosenthal
89. Armando Saenz
90. Guadalupe Salinas
91. Phillip Salmon
92. Amy Sayler
93. George Shackelford
94. Jack Sides
95. Jennifer Skidmore
96. Edward Smith
97. Daryl Smith
98. Dawn Snead
99. Thomas Steele
100. Kara Stewart
101. Brenda Stuart
102. Janet Summers
103. Amy Swain

104. Jezzette Taillefer
105. James Tewalt
106. Jerry Thomas
107. Jesse Torres
108. Shannon Trezza
109. Betty Ulibarri
110. Mark Vincent
111. Cassandra Wagner
112. Christi Weedon
113. Chris West
114. Michael Whittle
115. Samantha Whittle
116. Billye Wilda
117. Eloy Wilson
118. Pamela Wilson
119. Andrea Winterhof (Telekesy)
120. Cynthia Wood
121. Erlinda Yount
122. William Zenk

- 123. Marilyn Zimmerman
- 124. Mitchell Varbel
- 125. Nancy Gilliam

The following certificate holders have demonstrated they completed the continuing education (CE) requirement. However, all or some of the continuing education hours were completed after the required timeframe. No information has been presented during the background review which is contrary to renewal of standard certification being granted and they have demonstrated they meet the minimum eligibility requirements for standard certification. Therefore, it is recommended the following certificate holders be granted renewal and, pursuant to ACJA §7-208(L)(9)(e) be assessed a delinquent CE fee of \$50.00 to be remitted no later than August 16, 2011.

- 126. David Bishop
- 127. Penny Burley
- 128. Karen Cooley
- 129. Ank-Kim Doan Pickell
- 130. Barbara French
- 131. Vivian Gallagher
- 132. Richard Getzen
- 133. Michael Law
- 134. Warner Lewis III
- 135. Brian Liu
- 136. Trina MacPhail
- 137. Raul Manzanares
- 138. Charles Rampenthal
- 139. Lisa Tonge
- 140. Alejandro Zalazar
- 141. Ranae Settle
- 142. Kristel Nielsen
- 143. Karen Kosies

The following certificate holders have submitted applications for renewal of standard certification. These certificate holders have met the consent terms as stipulated in their consent agreements. The certificate holders have demonstrated they meet the minimum eligibility requirements for renewal of standard certification. It is recommended the Board grant renewal of standard certification to the following individuals:

- 144. Elaine Anghel
- 145. Deborah Albert
- 146. Martha Barraza
- 147. Jenifer Bone
- 148. Edith Funk
- 149. Richard Hoyt
- 150. James Jennings

The following certificate holders have submitted applications for renewal of standard certification. These certificate holders disclosed information required in the background information section of the application. The certificate holders have demonstrated they meet the minimum eligibility requirements for renewal of standard certification. It is recommended the Board grant renewal of standard certification to the following applicants:

151. **Michael Anderson** – Disclosed a complaint that was filed regarding content on his website, complaint was dismissed.
152. **Elizabeth Beatty** – Disclosed she was involved in a civil suit regarding a decree of dissolution.
153. **Antonia Bolle** – Disclosed a complaint has been filed against her employer.
154. **Victor Calvario** – Disclosed a complaint filed against him that has been deemed resolved by the BBB, disclosed civil suits regarding insufficient funds that have been dismissed.
155. **Lindsay Cline** – Disclosed she was involved in a civil suit where client reported the business did not fulfill their obligations.
156. **Christina Collura** – Disclosed there was a complaint filed against her and is unaware if the issue has been resolved.
157. **David Enevoldsen** – Disclosed he was involved in a civil suit for forcible detainer against tenants, disclosed foreclosure on two homes.
158. **Dan Fore** – [REDACTED]
159. **Deanna Fore** – [REDACTED]
160. **Tannya Gaxiola** – [REDACTED]
161. **Joseph Glennon** – Disclosed he was involved in a civil suit with ex-wife for collection of debt, judgment was rendered and debt has been paid.
162. **Barry Goldman** – Disclosed he is an assignee of judgment in suits that were previously disclosed to the Board, no new civil suits to disclose.
163. **Daniel Gray** – [REDACTED]
164. **Derek Haigh** – Disclosed closed complaints filed in 2009, reported no further complaints to date that he is aware of.
165. **Vicky Halleck** – Disclosed she has filed a forcible detainer suit against a renter.
166. **Mary Hopf** – Disclosed that there are pending complaints against her employer.
167. **Christine Jerome** – Disclosed a complaint filed against her employer.
168. **Kathleen Kindred** – Disclosed she was involved in a civil suit for credit card debt.
169. **Leanora Lagas** – Disclosed she was involved in a consent agreement that was closed in 2009.

170. **Stephen Lee** – Disclosed being involved in a civil action regarding a dispute between himself and an HOA that was formed without the knowledge and consent of the property owners within the covenant.
171. **Eugenia “Jeanne” Lien** – Disclosed being involved in a personal injury civil suit, a civil suit against her business regarding a line of credit. The business is now closed and has been dissolved.
172. **Maria Lungo** – Disclosed being involved in a civil suit regarding extreme changes on “We the People Franchise” policies and fees, case was settled out of court.
173. **Sandra Mejia** – Disclosed a complaint filed in 2005 that was recently closed.
174. **Michelle Messmer** – Disclosed criminal charge that was previously disclosed to the Board during initial certification.
175. **Lupita Shestko-Montiel** – Disclosed she was involved in three civil cases, one of which was dismissed.
176. **Patricia Steward** – Disclosed she was involved in a civil suit against her insurance company, case has been dismissed.
177. **Donald Steward** – Disclosed he was involved in a civil suit for credit card breach of contract. He is making payments as agreed upon in mediation.
178. **Karen Strauss** – Disclosed a complaint has been filed against her employer.
179. **Patricia Taylor** – [REDACTED]
180. **Calah Thomas** – Disclosed a past criminal case that was previously disclosed to the Board during initial certification.
181. **Donna Vasquez** – Disclosed a complaint resulting in a letter of concern, involved in a civil suit where she acted as a statutory agent, a judgment was entered against her and all fees were paid.
182. **Sheila Webster** – Disclosed a complaint filed with BBB. She provided a refund to the complainant and the issue was deemed resolved by the BBB.
183. **Jane Whitley** – Disclosed civil suits filed against her employer and reported no direct involvement in the suits.
184. **David Wilcox** – Disclosed he was involved in a civil suit where HOA is being sued for misappropriation of homeowners’ funds.
185. **Cindy Wong** – Disclosed a complaint has been filed against her employer.

The following certificate holders have demonstrated they completed the continuing education (CE) requirement. However, all or some of the continuing education hours were completed after the required timeframe. These certificate holders have also disclosed information required in the background information section of the application. The certificate holders have otherwise demonstrated they meet the minimum eligibility requirements for renewal of standard certification. Therefore, it is recommended the following certificate holders be granted renewal; and, pursuant to ACJA §7-208(L)(9)(e), be assessed a delinquent CE fee of \$50.00 to be remitted no later than August 16, 2011.

186. **Sandra Coffman** – Disclosed she was involved in a civil suit regarding bankruptcy documents prepared but never collected by the client, judgment was rendered against applicant and applicant has filed a counter suit.

187. **Tracey Dombroski** – Disclosed she was involved in a couple of civil suits that were ultimately dismissed.
188. **Stephen Glacy** – Disclosed he is involved in a civil case that was previously disclosed to the Board as the suit was filed in March of 2009.
189. **Debra Griffin** – Disclosed she was involved in criminal suit that was ultimately dismissed, disclosed she is involved in a civil suit regarding debt collection and payment arrangements are being negotiated.

The following certificate holders have submitted applications for renewal of standard certification. These certificate holders have failed to disclose information required in the background information section of the application and have responded to staff's inquiry for further information. The certificate holders have otherwise demonstrated they meet the minimum eligibility requirements for standard certification. It is recommended the Board grant renewal of standard certification to the following applicants:

190. **Raymond Beltran** – Failed to disclose civil suit, informed Division staff he had forgotten about case filed back in 2009 due to family issues and stress, case was ultimately dismissed.
191. **Tracy Boen** – Failed to disclose four civil suits, informed Division staff the cases were Justice Court cases and didn't realize they needed to be disclosed, provided information regarding forcible detainer suit, two injunctions against harassment suits, and voluntary petition suit.
192. **Bruce Davidson** – Failed to disclose civil suit, informed Division staff he acted as a statutory agent in a civil suit but did not disclose the suit because it was not related to the Legal Document Preparer profession.
193. **Rae MacLean** – Failed to disclose civil suit, informed Division staff she didn't disclose civil suit because she was not aware that a suit had been filed against her, a counter suit for harassment was filed.
194. **Denisa Kaporalis** – Failed to disclose civil suit, informed Division staff she was unaware of any suit being filed as she had not ever been served.
195. **Renee Martin** – Failed to disclose criminal case, informed Division staff she was not aware the charge was on her record, pled not-guilty and case did not go to trial.
196. **Larry Heywood** – Failed to disclose civil suit, informed Division staff that suits are usually filed under Business name so was unaware of any suit being filed under his name.

The following certificate holders have submitted applications for renewal of standard certification. These certificate holders have failed to disclose information required in the background information section of the application and have not responded to staff's inquiry for further information or further information is needed to process their application; therefore, it is recommended their renewal application be deferred to the September board meeting. If staff receives the necessary information on the following individuals before the July board meeting then the Board will be updated of their status at that time.

197. **Michael Chan** – Applicant has failed to respond to Division staff's request for

- more information during background check.
- 198. **Sergio Diaz** - Applicant has failed to respond to Division staff's request for more information during background check.
 - 199. **Cindy McCoy** - Applicant has failed to respond to Division staff's request for more information during background check.
 - 200. **Karen Nogle** - Applicant has failed to respond to Division staff's request for more information during background check.
 - 201. **Marianne Smith** - Applicant has failed to respond to Division staff's request for more information during background check.
 - 202. **Georgi Aguilar (Willis)** - Applicant checked "yes" to a question on the renewal application but has not submitted the documentation.
 - 203. **Karla Wyrostek** - Applicant checked "yes" to a question on the renewal application but has not submitted the documentation.
 - 204. **Greta Shumway** - Applicant has failed to respond to Division staff's request for more information during background check.
 - 205. **Anabel Wright** - Applicant checked "yes" to a question on the renewal application but has not submitted the documentation.
 - 206. **Michelle Blake** - Applicant has failed to respond to Division staff's request for more information during background check.
 - 207. **Barton Stevens** - Applicant failed to submit verification of CE credits.
 - 208. **Marwan Sadeddin** - Applicant sent in partial verification of completion of CE credits.
 - 209. **Thomas Brown** - Applicant sent in partial verification of completion of CE credits.
 - 210. **Mark Bluemke** - Applicant has failed to respond to Division staff's request for more information during background check.

The following certificate holders have submitted applications for renewal of standard certification. [REDACTED]

[REDACTED] *The certificate holders have demonstrated they meet the minimum eligibility requirements for renewal of standard certification. It is recommended the Board grant renewal of standard certification to the following individuals:*

- 211. Deborah Moldovan
- 212. Dawn Fountain
- 213. Dennis Lawrence
- 214. Daniel Taylor
- 215. Kenneth Singer
- 216. Melissa Tenny
- 217. Pamela Milburn
- 218. Janneth Cardenas
- 219. Sumer Jennings
- 220. Victoria King
- 221. Debra Pope
- 222. Jill Smith
- 223. Carol Gray

- 224. Darlene Landgrave
- 225. David Lerma
- 226. Carla Lief
- 227. Gregory Economidis

The following certificate holders have submitted applications for renewal of standard certification. [REDACTED]

[REDACTED]. Additionally, the following certificate holders have demonstrated they completed the continuing education (CE) requirement. However, all or some of the continuing education hours were completed after the required timeframe. The certificate holders have otherwise demonstrated they meet the minimum eligibility requirements for renewal of standard certification. Therefore, it is recommended the following certificate holders be granted renewal; and, pursuant to ACJA §7-208(L)(9)(e), be assessed a delinquent CE fee of \$50.00 to be remitted no later than August 16, 2011:

- 228. JoAnn Kramer
- 229. William Kelly
- 230. Donna Vangury
- 231. Carlos Galindo
- 232. Carol Aragon-Montgomery
- 233. Brenda Smith

The following certificate holders have submitted applications for renewal of standard certification; however, further information is needed to process their application. Therefore, it is recommended their renewal application be deferred to the September board meeting. If staff receives the necessary information on the following individuals before the July board meeting then the Board will be updated of their status at that time:

- 234. Nancy Anderson
- 235. Mark Schmit
- 236. Ramon Garcia
- 237. Lillian Stephens Murray
- 238. Rochelle Hoekstra
- 239. Jacqueline Velde
- 240. Allan Bonhoff
- 241. Maria Gil
- 242. Kari Kirk
- 243. Betsy Ross-Retchin
- 244. Stephen Trezza
- 245. Elizabeth O'Connor
- 246. Deborah Burt
- 247. Sherrene Caley
- 248. Cynthia Bowman
- 249. Constance Havens
- 250. Valerie Burcks

251. Angela Darling
252. Grace Da Virro
253. Vicki Fink
254. Richard Fink
255. Shannon Kline
256. Frances Langston-Hancock
257. Karen Nogle
258. Nancie Raddatz
259. Doris Fields
260. David Goulet
261. Richard Slatin
262. Laura Pavey
263. Minzell Kelly
264. Sharlene Konenko
265. Cindy McCoy
266. Ronald West
267. Judith Alspaugh
268. Deborah Blunt
269. Sergio Diaz
270. Saydee Ramos
271. George Mortensen
272. Diana Camacho
273. Michael Chan
274. Edna Gomez-Green
275. Debra Parks
276. Silviano Tanori
277. Joyce Brendel
278. Marlene Leatherwood
279. Anna Anderson
280. Patrick Ertz
281. Maria Ortiz
282. Alyssa Rivett
283. Bernadette Guzman
284. George Preston Parker
285. Joy Partridge
286. Randolph Albers
287. George Chant
288. John Kroeger
289. Cherry Blue
290. Marni Gramhill
291. Elaine Kaufman
292. Leah Keller
293. Tracey Kokumo Craig
294. Rosalie Lines
295. Jessica Mendez
296. Jodi Phelps

- 297. Cheryl Thurman
- 298. Sonya Torres
- 299. Lynette Torres
- 300. Amy Villarreal-Orantez
- 301. James Bruce
- 302. Miguel Guzman
- 303. Cedric Johnson
- 304. Cherie Koch
- 305. Karina Morales
- 306. Debra Roberts-Milbyer
- 307. Jose Robledo

BOARD OF LEGAL DOCUMENT PREPARERS



Agenda Summary – Monday, July 25, 2011

- 5-B: *Review, discussion, and possible action regarding pending applications for 2011-2013 certification renewal for business entities.*

The following business entities have submitted applications for renewal of standard certification. The applications are complete; no information has been presented during the background which is contrary to renewal certification being granted. The business entities have demonstrated they meet the minimum eligibility requirements for renewal certification. It is recommended renewal certification be granted to the following business entities:

1. A.D. Scott, Ltd. DBA PMG Services (Mary Jo Edel)
2. Affordable Legal Document Services, Inc. (Carol Keller)
3. Legalezeusa, LLC (Dan Fore)
4. Southeast Arizona Paralegal Services (Misty Coppedge)
5. Lien Secure, LLC (Donald Lincoln)
6. Morrison Group, Inc. (Patricia Morrison)
7. National Contractor Services Corporation (Brian Finn)
8. Building Industry Credit Association (Andrea Parisi)
9. Center for Divorce Mediation & Alternative Dispute (Mary Marcus)
10. Valley Docs & Paralegal Services, LLC (Mary Carlton)
11. Dan Peterson Property Management, LLC (Dan Peterson)
12. Montes Multiple Services, LLC (Alicia Celis)
13. Edward M. Osinski, CPA, PC (Edward Osinski)
14. T.F.C. Ventures, Inc. (Lori Kort)
15. Planned Development (Lori Rutledge)

The following business entities submitted applications for renewal of standard certification and disclosed information on their applications. The applications are complete; no additional information has been presented during the background which is contrary to renewal certification being granted. The business entities have demonstrated they meet the minimum eligibility requirements for renewal certification. It is recommended renewal certification be granted to the following business entities:

16. **Arizona Paralegal Services, Inc.** (Deborah Moldovan) – 

17. **Legalzoom.com** (Brian Liu) – Business entity disclosed being involved in several civil suits, one civil suit was dismissed, one class action lawsuit is being appealed, a complaint was filed related to NADC business practices, class action lawsuit arising from California

Legal Document Assistant Act & other statutes, disclosed that 3 complaints have been resolved, 39 complaints have been closed within the last 12 months per the BBB report.

18. **Jurdoc, LLC** (Stephen Lee) – Business entity disclosed being involved in civil action regarding a dispute between designated principle and an HOA that was formed without the knowledge and consent of the property owners within the covenant.

The following business entities have submitted applications for renewal of standard certification; however, further information is needed to process their applications. Therefore, it is recommended their renewal applications be deferred to the September board meeting. If staff receives the necessary information on the following business entities before the July board meeting then the Board will be updated of their status at that time:

19. Ashley Renee Enterprises Corporation (Dale Shephard)
20. CB Document Preparation, LLC (Brenda Smith)
21. Cornerstone Properties, INC. (Michael Roberson)
22. Preliminary Notice Company, LLC. (Brook Murray)
23. Titan Lien Services, Inc. (Jill Smith)
24. Montgomery & Associates, Inc. (Carol Aragon-Montgomery)
25. My Corporation Business Services, Inc. (Meghan Record)
26. Bart Stevens Special Needs Planning, LLC (Barton Stevens)
27. Metro Association Management (Linda Kellogg)
28. Ayuda Legal Help LLC (Ramon Garcia)
29. AZ Lien Services, Inc. (Lillian Stephens Murray)
30. EZ Legal Documents, LLC (Mandi Hemming)
31. Precision Legal Preparation, LLC (Michael Figueroa)
32. Assisted Document Solutions, P.L.L.C. (Rochelle Hoekstra)
33. Caprenos Inc. (Karen Paschall)
34. GFA Wealth Design LLC DBA Gentry Wealth Management (Erica Leblang)
35. Heywood Realty & Investment, Inc. (Larry Heywood)
36. Lagas & Associates Paralegal Services, LLC (Leanora Lagas)
37. Signature Documents, LLC (JoAnn Kramer)
38. Your Entity Solution, LLC (Wendy Byford)
39. Arizona Wills & Trusts of Tucson, LLC (Allan Bonhoff)
40. Cheryl A. Wall, P.C. (Cheryl Wall)
41. Essential Estate Plans, LLC (Allan Bonhoff)
42. Financial Strategies, Inc. (Michael Anderson)
43. Jemasi Inc. (Maria Gil)
44. R & R Property Management, LLC (Betsy Ross-Retchin)
45. Key Legal Document Solutions, PLC (Bernadette Deangelis)
46. Bishop & Associates, Inc. (David Bishop)
47. Guardian Estate Planning Service (Daniel Taylor)
48. Precision Paralegal Services LLC (Paris Chacon)
49. East Valley Estate Planning, LLC (Catherine Longman)
50. Emit, Inc. (Melissa Tenny)

51. Strategic Points Documentation Preparation, PLLC (Lisa Tonge)
52. American Contractor Licensing Services, Inc. (Bruce Evers)
53. Desert Schools Financial Services, LLC. (Jolie Fontana-Black)
54. Edward F. Daily CPA P.C. (Edward Daily)
55. Family First Estate & Corporate Services, LLC (Eric Schoeller)
56. Laguna Business Services, LLC (Edward Smith)
57. Law & Reed CPA'S PC (Michael Law)
58. National Document, LLC (Scott Boyer)
59. Steele Larson Anderson Legal, LLC (Thomas Steele)
60. Advanced Legal Services LLC (Marwan Sadeddin)
61. Harrison CPA & Consulting, PC (Elizabeth Harrison)
62. Today's Legal Choice, L.L.C. (Guadalupe Salinas)
63. 123 The Document Tree, LLC (Cynthia Bowman)
64. Out-of-Court Solutions (Oliver Ross)
65. Valleywide Legal Documents, LLC (Karen Cooley)
66. AZ Statewide Paralegal (Shannon Trezza)
67. Metro Tax, Inc. (Michael Whittle)
68. Stevens Paralegal Services, LLC (Jette Stevens)
69. Alliance Legal Services, LLC (Christopher Fortier)
70. Affordable Services, Inc. (David Hendrickson)
71. Alliance Estate Planning, Inc. (Jennifer Skidmore)
72. Cadden Community Management, INC. (Deborah Colon-Mateo)
73. Paradox Document Preparation Service, L.L.C. (Jennifer Bone)
74. Phoenix Success, Inc. (Denisa Kaporalis)
75. Richard C. Hoyt & Associates, Inc. (Richard Hoyt)
76. Strategic Tax Planning LLC (Lynn Forman)
77. Certified Legal Document Preparers, LLC (Allen Merrill)
78. Construction Notice Services, Inc. (Richard Fink)
79. Discount Divorce Professional, LLC (James Jennings)
80. Langston-Hancock Legal Documents (Frances Langston-Hancock)
81. Divorce, Custody & Child Support Services, Inc. (Richard Slatin)
82. Florence Paralegal Services, LLC (Elizabeth Beatty)
83. Continental Recovery Services (Laura Pavey)
84. Karla's Paralegal Services, Inc. (Karla Wyrstek)
85. Arizona Legal Document Services, LLC (Kellie DiCarlo)
86. Financial Security Group of Arizona, Inc. (JoAnn Regan)
87. Freshstart Women's Foundation (Edna Gomez-Green)
88. Tax & Money Strategies (Jack Sides)
89. Van Rylin Associates Inc. (Janet Summers)
90. West-Word Services Corp. (Chris West)
91. Affordable Document Preparation, LLC (Emil Estopare)
92. Capital Consultants Management Corporation (Judith Alspaugh)
93. Fishgold Financial Services Limited (Valerie Fishgold)
94. Kachina Management, Inc. (Christina Collura)
95. Rider Levett Bucknall LTD (Julian Anderson)
96. AA American Contractors License School, LLC (Constance Havens)

97. AAA Legal Services Inc. (Joseph Glennon)
98. Carefree Document Services, LLC (Amy Swain)
99. Paralegal Consultants, Inc. (Loray Bassani)
100. Rapid RPS (AZ), LLC (Barry Goldman)
101. American Living Trust Services, LLC (Dennis Lawrence)
102. Americana Services (Vellia Pena)
103. Cautela Corporation (Marley Beard)
104. Griffin Paralegal Services, LLC (Debra Griffin)
105. Joyce's Services Corporation (Edith Funk)
106. Northern Arizona Investment Group, Inc. (Jane Whitley)
107. Ogden Services Incorporated (Bonnie Ogden)
108. Southwest Legal Document Services, LLC (Ranae Settle)
109. Tri-City Property Management Services, Inc. (Elaine Anghel)
110. Accurate Lien and Contractor Assistance, Inc. (Lindsay Cline)
111. Arizona Legal Ease, Inc. (Sheila Webster)
112. Document Resource Center LLC (Donald Steward)
113. Economidis Mediation Services, L.L.C. (Gregory Economidis)
114. Esslinger Enterprises, LLC DBA Deed Resource (Michele Esslinger)
115. Legal Type Documents (Debra Parks)
116. Grand Canyon Planning Associates LLC (Tracey Dombroski)
117. Scottsdale Condominium Management, Inc. (Irene Mayer)
118. The Getzen Group Inc. (Richard Getzen)
119. Agencia Hispana (Carlos Galindo)
120. Guardian Financial Planning Services, Inc. (Patrick Ertz)
121. State DPS, LLC (Alyssa Rivett)
122. Parker Egan CPAS PLLC (George Preston Parker)
123. Arizona Legal Briefcase, LLC (Michelle Blake)
124. Katherine J. Kredit Enterprises, Inc. (Katherine Kredit)
125. Accounting World CPA & Consulting, PLC (Joy Partridge)
126. AAM, LLC (Jean Farrell)
127. The Lien Group, LLC (Eugene "Jeanne" Lien)
128. Asset Research Services, Inc. (Cheryl Thurman)
129. Cheaper Than A Lawyer, LLC (Tracey Kokumo Craig)
130. City Property Management Company (Jodi Phelps)
131. Corporation Lien Services, LLC (Michael Haley)
132. Saguaro Lien Service, LLC (Rosalie Lines)
133. AMCN Group, LLC (Marcia Nolan-Malsack)
134. Servicios Hispanos (Karina Morales)
135. A1 Legal Services, LLC (Ank-Kim Doan Pickell)
136. Divorce Packet Processing, LLC (Linda Seger)
137. Living Estate Solutions, Inc. (Eleanor Tarman)
138. Andrew M. Saper, L.L.C. (Andrew Saper)
139. Alta Estate Services, LLC (Alyssa Marino)
140. Suzette M. Brown, PC (Suzette Brown)
141. Celentano's Mobile Notary Service, Inc. (Judith Celentano)

BOARD OF LEGAL DOCUMENT PREPARERS

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5) RENEWAL CERTIFICATION APPLICATIONS

5-C: Review of Business Entity Exemption Extension Requests for the 2011-2013 certification period.

It is recommended the following Business Entity Exemption Extensions be granted for the 2011-2013 certification period:

1. Valley Docs & Paralegal Services, LLC (Mary Carlton)
2. Dan Peterson Property Management LLC (Daniel Peterson)
3. Affordable Legal Document Services, Inc. (Carol A Keller)
4. Lien Secure, LLC (Donald Lincoln)
5. Affordable Legal Document Services, Inc. (Carol A Keller)
6. Southeast Arizona Paralegal Services (Misty Coppedge)

It is recommended the following Business Entity Exemption Extensions be deferred until the September meeting:

7. Preliminary Notice Company, LLC (Brook Murray)
8. Montgomery & Associates, Inc. (Carol Aragon-Montgomery)
9. Bart Stevens Special Needs Planning, LLC (Barton Stevens)
10. Metro Association Management (Linda Kellogg)
11. EZ Legal Documents, LLC (Mandi Hemming)
12. Arizona Wills & Trusts of Tucson, LLC (Allan Bonhoff)
13. Cheryl A. Wall, P.C. (Cheryl Wall)
14. Essential Estate Plans, LLC (Allan Bonhoff)
15. Financial Strategies, Inc. (Michael Anderson)
16. R & R Property Management, LLC (Betsy Ross-Retchin)
17. Bishop & Associates, Inc. (David Bishop)
18. East Valley Estate Planning, LLC (Catharine Longman)
19. Edward F. Daily CPA P.C. (Edward Daily)
20. Family First Estate & Corporate Services, LLC (Eric Schoeller)
21. Laguna Business Services, LLC (Edward Smith)
22. Advanced Legal Services LLC (Marwan Sadeddin)
23. Today's Legal Choice, L.L.C. (Guadalupe Salinas)
24. 123 The Document Tree, LLC (Cynthia Bowman)
25. Out-Of-Court Solutions (Oliver Ross)
26. Valleywide Legal Documents, LLC (Karen Cooley)
27. Affordable Services, Inc. (David Hendrickson)
28. Alliance Estate Planning, Inc (Jennifer Skidmore)
29. Paradox Document Preparation Service, L.L.C. (Jennifer Bone)
30. Langston-Hancock Legal Documents (Frances Langston-Hancock)

31. Divorce, Custody & Child Support Services, Inc. (Richard Slatin)
32. Karla's Paralegal Services, Inc. (Karla Wyrostek)
33. West-Word Services Corp. (Chris West)
34. Fishgold Financial Services Limited (Valerie Fishgold)
35. Rider Levett Bucknall Ltd (Julian Anderson)
36. Carefree Document Services, LLC (Amy Swain)
37. Paralegal Consultants, Inc (Loray Bassani)
38. Rapid RPS (AZ), LLC (Barry Goldman)
39. American Living Trust Services LLC (Dennis Lawrence)
40. Cautela Corporation (Marley Beard)
41. Griffin Paralegal Services, LLC (Debra Griffin)
42. Southwest Legal Document Services, LLC (Ranae Settle)
43. Economidis Mediation Services, L.L.C. (Gregory Economidis)
44. Legal Type Documents (Debra Parks)
45. Peoria Nu Start Bankruptcy (Debra Parks)
46. Eastlack Paralegal Services, LLC (Angela Eastlack)
47. AZ Legal Document Solutions, LLC (Michael Mahoney)
48. Carla's Paralegal Services, LLC (Carla Lief)
49. Salmon & Associates Business Consulting, LLC (Phillip Salmon)
50. Nancy L. Anderson LLC (Nancy Anderson)
51. Scottsdale Condominium Management, Inc. (Irene Mayer)
52. Guardian Financial Planning Services, Inc. (Patrick Ertz)
53. Parker Egan CPAS PLLC (George Preston Parker)
54. Katherine J. Kredit Enterprises, Inc. (Katherine Kredit)
55. The Lien Group, LLC (Eugenia "Jeanne" Lien)
56. Cheaper Than a Lawyer, LLC (Tracey Kokumo Craig)
57. AMCN Group, LLC (Marcia Nolan-Malsack)
58. A1 Legal Services, LLC (Ank-Kim Doan Pickell)
59. Divorce Packet Processing LLC (Linda Seger)
60. Living Estate Solutions, Inc. (Eleanor Tarman)
61. Andrew M. Saper, L.L.C. (Andrew Saper)
62. Alta Estate Services, LLC (Alyssa Marino)
63. Suzette M. Brown, PC (Suzette Brown)
64. Celentano's Mobile Notary Service, Inc (Judith Celentano)

BOARD OF LEGAL DOCUMENT PREPARERS

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6) CERTIFICATION AND ELIGIBILITY

6-A: *Review, discussion, and possible action regarding the Voluntary Surrender request:*

The following legal document preparers and business entity have submitted Voluntary Surrender requests:

1. Angela Iserhott
2. Salina Faaborg
3. Alenda Martin
4. Shawnterry Cato
5. Mark Clark
6. TLC Enterprises, LLC (Shawnterry Cato)

ACJA § 7-201 (E)(7) reads as follows:

Voluntary Surrender. A certificate holder in good standing may surrender their certificate to the board. However, the surrender of the certificate is not valid until accepted by the board. The board or division staff may require additional information reasonably necessary to determine if the certificate holder has violated any provision of the statutes, court rules and this section or the applicable section of the ACJA. The surrender does not prevent the commencement of subsequent discipline proceedings for any conduct of the surrendered certificate holder occurring prior to the surrender.

Division records confirm there are no pending complaints involving any of the above Legal Document Preparers or Business Entities.

Staff recommends the Board accept the voluntary surrenders.

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

6) CERTIFICATION AND ELIGIBILITY

6-B: Interview with and possible action regarding applicant Cynthia M. Cooks.

During the June meeting, the Board requested staff invite Cynthia M. Cooks to attend the July 25th meeting to provide additional information regarding her application.

Applicant disclosed having several misdemeanors ranging from 1991 to 2006. Also, application stated she is currently in numerous civil actions based on her position as a general liability claims examiner in multiple jurisdictions handling litigated files for her employer. However, she failed to disclose 6 civil actions involving her personally. See enclosed application and documentation.

Staff recommends the Board address the misdemeanor convictions, failure to disclose civil actions, and any other information pertaining to her application and determine if the information presented is contrary to certification being granted.

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

6) CERTIFICATION AND ELIGIBILITY

6-C: *Interview with and possible action regarding applicant Leonard W. Deehan.*

During the June meeting, the Board requested staff invite Leonard W. Deehan to attend the July 25th meeting to provide additional information regarding his application.

Applicant disclosed being convicted of a felony charge in July 1979 for Commission of a Lewd and Lascivious Act with a girl less than fifteen years of age. Applicant failed to disclose seven civil actions. See enclosed application and documentation.

Staff recommends the Board address the felony conviction, failure to disclose civil actions, and any other information pertaining to his application and determine if the information presented is contrary to certification being granted.

BOARD OF LEGAL DOCUMENT PREPARERS

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6) CERTIFICATION AND ELIGIBILITY

6-D: Interview with and possible action regarding applicant Lisa Perez-Leon and Perez Paralegal Group, LLC

During the June meeting, the Board requested staff invite Lisa Perez-Leon to attend the July 25th meeting to provide additional information regarding her application.

Applicant was originally certified on June 24, 2003 through June 15, 2006 when the Board accepted her voluntary surrender request. Applicant disclosed on her application receiving two misdemeanor disorderly conduct one on October 10, 2001 and the other on November 7, 2001. Guilty plea was entered on both cases and she was placed on a deferred judgment. Applicant complied with the conditions and both cases were dismissed and closed on March 21, 2002. Applicant also disclosed being convicted for misdemeanor domestic violence on December 28, 2005 and while on probation for this misdemeanor she received a misdemeanor aggravated assault on October 28, 2007 therefore violating her probation in Colorado for the December 2005 misdemeanor. On April 29, 2008, Maricopa Adult Probation Interstate Compact Unit accepted her case from Colorado. All terms of probation were completed and the Interstate Compact case was closed on March 9, 2010. For the October 2007 misdemeanor applicant completed all terms of probation and an order vacating the judgment and dismissing the charges was entered on March 18, 2011. See enclosed application and documentation.

Staff recommends the Board address the misdemeanor convictions and any other information pertaining to her application and determine if the information presented is contrary to certification being granted.

BOARD OF LEGAL DOCUMENT PREPARERS

Agenda Summary - Monday, July 25, 2011

6) CERTIFICATION AND ELIGIBILITY

6-E: Review, discussion and possible action regarding Hearing Officer Jonathan Schwartz's Recommendation Report involving the denial of the certification application submitted by Jessica Star.

Attached is the Hearing Officer's Recommendation report regarding the denial of Ms. Star's certification application. Hearing Officer Schwartz recommends the Board uphold the earlier denial for certification.

FILED

JUN 2 2011

DISCIPLINARY CLERK OF THE
SUPREME COURT OF ARIZONA
BY 

**BEFORE THE SUPREME COURT OF ARIZONA
LEGAL DOCUMENT PREPARER BOARD**

IN THE MATTER OF:

JESSICA C. STAR,
Applicant

No. LDP-11-4

**HEARING OFFICER'S REPORT AND
RECOMMENDATION**

[Hon. Jonathan H. Schwartz, Retired,
Hearing Officer]

PROCEDURAL HISTORY

On or about November 19, 2010 Jessica Star (hereinafter "Applicant") submitted an application for standard certification as an individual legal document preparer. (Exhibit B) On November 10, 2010, the Applicant had been informed by the Legal Document Preparer Program (hereinafter "Program") that she had passed the program examination. (Exhibit A) On March 2, 2011, the Applicant received a notice from the Board of Legal Document Preparers (hereinafter "Board") that her application was denied pursuant to the Arizona Code of Judicial Administration (hereinafter "AC JA"), section 7-201(E)(2)(c)(1) which states, "The board shall deny certification of the applicant if the applicant does not meet the qualifications or eligibility requirements at the time of the application described in this section or the applicable section of the AC JA..." The Board determined that Applicant did not meet the requirement for individual standard certification set forth in AC JA section 7-208(E)(3)(b)(6)(b)(iii) which requires a person who has a four-year bachelor of

arts or bachelor of science degree from an accredited college or university to also have "... a minimum of one year of law-related experience in one or a combination of the following situations: (iii) Under the supervision of a certified legal document preparer after July 1, 2003."

Applicant requested a hearing on her application for certification. The Hearing Officer, the Hon. Jonathan H. Schwartz (retired) conducted the hearing on April 26, 2011.

FINDINGS OF FACT

- 1) Applicant has a Bachelor of Science degree in Criminal Justice & Criminology from Arizona State University. (Exhibit F)
- 2) Applicant has a Master of Science degree in Psychology from the University of Phoenix. (Exhibit E)
- 3) Applicant testified that either her Master degree or her work as an understudy of her mother Julie Star (a certified legal document preparer) should in addition to her Bachelor degree qualify her for certification. (Transcript of the Hearing "TR" page 4, line 18 through page 16, line 1, "4:18 through 16:1)
- 4) Applicant has been an understudy for her mother in her mother's legal document preparer practice since about 1999. Applicant started typing documents under her mother's review in 2005. She earned her Bachelor degree from 2006 to 2008. She earned her Master degree from 2009 through 2011. She assisted her mother in preparing legal documents in divorce cases, and in federal cases. She recalled that she worked on

matters that involved paternity and grandparents rights. (TR 4:18 through 6:17)

- 5) Applicant further testified that in her opinion if the AC JA required an applicant who had a high school degree to have two years of law-related experience and also required an applicant who had a Bachelor degree to have one year of law related experience, then Applicant who has a Master degree should need no more law-related experience to be qualified as a certified legal document preparer. (TR 7:5-25)
- 6) In the alternative Applicant testified that her Master degree should equal one year of law-related experience because in order to earn the Master degree Applicant had to do significant research. She likened this research to the research required of a legal document preparer. (TR 7:18 through 8:7, 17:8 through 18:1) She said that her Master degree in Psychology assisted her in putting her mother's clients at ease and discussing matters with them. Applicant also stated that she learned more cultural sensitivity in graduate school. (TR 18:21 through 19:22)
- 7) Applicant also stated that if the AC JA required a trainee to work under a licensed document preparer who was also a business entity, then her mother Julie Star is in effect a business entity even if Julie Star did not pay additional fees. But Applicant asserted that her mother is highly capable of training other people to be legal document preparers. (TR 8:8-20)
- 8) Applicant also argued that her mother should not be required to be a business entity for Applicant to have acquired at least one year of law-

related experience, because AC JA section 7-208(E)(3)(d)(3) states, "A sole proprietor who does not employ certified legal document preparers or supervise trainees pursuant to subsections (A) and (F)(5), is not required to hold certification as a business entity, provided the sole proprietor holds valid certification as an individual legal document preparer."

Applicant testified that she was not employed by her mother. (TR 8:21 through 9:18) Instead, Applicant likened her role assisting her mother to that of an intern.

9) Applicant would prepare a document and then put it in a review file shelf. Her mother would then review it. Her mother would interview clients, but Applicant might follow-up with clients if more information was needed. Her mother did not give Applicant written training materials. Instead, Applicant just followed the instructions that came with the documents from court. (TR 9:19 through 12:25)

10) She testified that her mother took continuing education classes in domestic relations, domestic violence and immigration law and apparently imparted the information that her mother learned in these courses to Applicant. (TR 12:25 through 13:4 and 13:24 through 14:5)

11) Applicant testified that since her mother prepared legal documents in immigration matters, Applicant became familiar with certain forms that were used in these cases. (TR 13:7-23) Applicant stated that her undergraduate thesis was on immigration law. (TR 13:24 through 14:5)

12) Applicant worked with her mother preparing legal documents from 2005 to the present approximately 5 to 7 hours each day when Applicant

was not working elsewhere. Applicant is on call for work at the Juvenile Court Detention Centers. From 2008 until about November 2010 Applicant was working 40 to 45 hours per week at the Detention Centers. (TR 14:7 through 16:1)

13) Applicant's mother Julie Star, a legal document preparer, testified that Applicant greeted customers, took some documents from the customers, faxed and copied documents and filed documents at court. This required Applicant to research the matter. Julie Star would ask the questions of the clients. Applicant, her daughter, would learn by listening. (TR 20:12 through 22:1)

14) Julie Star is not a certified business entity. (TR 22:9-10)

15) Julie Star also testified that her daughter Applicant typed paperwork and Julie would review the typing. Julie Star was careful to correct any mistakes made by Applicant. (TR 23:18 through 24:13)

CONCLUSIONS OF LAW

16) Applicant has not established by a preponderance of the evidence that she is qualified for certification as a legal document preparer. ACJA section 7-201(H)(21)(c)(4)

17) ACJA section 7-208 (E)(3)(b)(6)(b)(iii) literally states that a person with a four-year college degree must also have a minimum of one year of law-related experience under the supervision of a certified legal document preparer. Applicant has testified that she has worked for more than one year under the supervision of her mother Julie Star, a certified legal document preparer.

- 18) The section set forth in paragraph 17 above must be read in conjunction with other sections of the ACJA. Section 7-208 (E)(3)(d)(3) entitled "Eligibility for Business Entity Standard Certification", states, "A sole proprietor who does not employ certified legal document preparers or supervise trainees pursuant to subsections (A) and (F)(5), is not required to hold certification as a business entity, provided the sole proprietor holds valid certification as an individual legal document preparer. "Here the ACJA is clearly stating that if a sole proprietor supervises trainees, the proprietor must be certified as a business entity.
- 19) Applicant is asserting that she was not "employed" by her mother, so that the subsection in paragraph 18 above is not applicable. But Applicant does not have a persuasive argument that she should not be considered a "trainee." Applicant described herself as like an intern. But the ACJA recognizes "trainees", not interns. In section 7-208 (F)(5) "Supervision of Trainees" a trainee is basically defined as "... a person who would qualify for certification as a legal document preparer but for the lack of required experience,..." Subsection (F)(5)(a) authorizes the designated principal of the certified business entity to train the employee to meet the requirements for a certified legal document preparer, but for a period of no longer than two and one-half years.
- 20) Subsection (F)(5)(c) requires any designated principal who will train a person to "Assume personal professional responsibility" for guiding the trainee and for supervising the quality of the trainee's work. Subsection (F)(5)(c)(5) requires the designated principal to "Prepare and submit a

written acknowledgment of the roles and responsibilities of the designated principal and trainee pursuant to subsections (F)(5) and (F)(6). The written acknowledgment shall include the name, address, start date of the trainee, and the anticipated date the trainee will meet the minimum eligibility requirements to seek individual certification."

21) Subsection (F)(6) requires the designated principal of a certified business entity to submit with the application for business entity certification a list of the subsection (F)(5) trainees acting for or on behalf of the business entity. In addition, the designated principal must file with division staff by May first of each year a list of all certified legal document preparers and all subsection (F)(5) trainees acting on behalf of the business entity.

22) The combination of the requirements in subsections (F)(5) and (F)(6) allows the division staff to track the trainees. Staff can determine when each trainee started and when they will be expected to meet the minimum eligibility requirements to seek individual certification. Staff can determine if the trainee has exceeded the maximum time allowable to train, 2 1/2 years, under subsection (F)(5)(a). But this same information was not available to staff in Applicant's case. Her mother Julie Star was not a certified business entity, nor was she the designated principal of a certified business entity. Therefore, Julie Star was not required to submit the information in subsections (F)(5) and (F)(6). It is reasonable to conclude that the drafters of the ACJA wanted the staff of the division to have some oversight concerning trainees. For this reason, the ACJA was

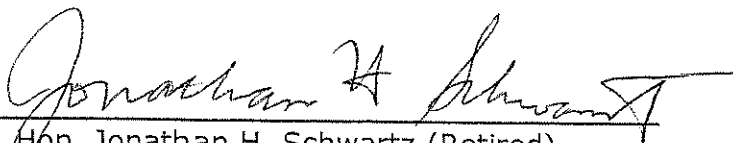
written to require information about trainees from a designated principal of a certified business entity. The ACJA deliberately did not require this information from a certified legal document preparer, because the code did not contemplate that a certified legal document preparer would be training others. This is the clear meaning of reading subsections (E)(3)(d) and (F)(5) and (F)(6) together.

- 23) The Applicant's argument that her Master degree in Psychology should be the equivalent of one year of law-related experience is not supported by the ACJA. The code recognizes only one circumstance where a graduate degree would qualify a person for certification as a legal document preparer without the need for any law-related experience; a law degree. Section 7-208 (E)(3)(f) and (g).

RECOMMENDATION

The Hearing Officer for the foregoing reasons recommends that the denial of the Applicant's request for certification as a legal document preparer be upheld. Since the Applicant's mother Julie Star was not a certified business entity as required by the ACJA, her supervision of the Applicant cannot qualify under the ACJA as the equivalent of one year of law-related experience under the supervision of a certified legal document preparer. This is not just a technicality. Julie Star did not submit the information required of those individuals who supervise trainees. The division was not able to engage in any oversight concerning the Applicant's training and to determine whether the maximum time allowable for that training had expired.

DATED this 2nd day of June, 2011



Hon. Jonathan H. Schwartz (Retired)
Hearing Officer

ORIGINAL filed with the Disciplinary Clerk
this 2nd day of June, 2011.

COPY of the foregoing mailed this 2nd
day of June, 2011, to:

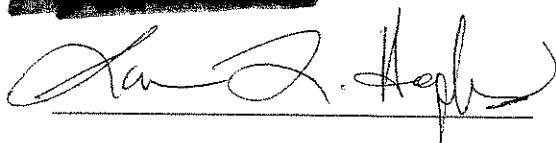
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BOARD OF LEGAL DOCUMENT PREPARERS

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6) CERTIFICATION AND ELIGIBILITY

6-F: *Review, discussion, and possible actions regarding the requests for extensions or waivers of continuing education (CE) requirements for certificate holders.*

1. **Staci Heinz** - requesting a 90 day extension due to being certified on 6/28/2010 and lacking time/funds to complete credits by the deadline. She has completed and submitted documentation of completion for 5.75 credits out of 10 credits required.
2. **Shelby Beerling** - requesting a 90 day extension due to lack of time to complete credits by the deadline. She has completed and submitted documentation of completion for 3 credits out of the 20 credits required.
3. **Dawn Polk** - requesting a 90 day extension due to being certified on 2/28/2011 and not realizing that 10 hours of CE credits were required by renewal date.
4. **Michael Haley** - requesting a 90 day extension due to being certified on 6/28/2010 and not realizing that CE credits were required by renewal date.

See enclosed requests for all of the above.

Pursuant to the Arizona Code of Judicial Administration ("ACJA") § 7-208((L)(9)(c)(2):

The board shall determine whether extenuating circumstances exist. In reviewing the request, the board shall consider if the legal document preparer has been unable to devote sufficient hours to fulfill the requirements during the certification period because of:

- (a) full-time service in the armed forces of the United States during a substantial part of the certificate period;*
- (b) an incapacitating illness documented by a statement from a currently licensed health care provider;*
- (c) a physical inability to travel to the sites of approved programs documented by a statement from a currently licensed health care provider; or*
- (d) any other special circumstances the board deems appropriate.*

Staff recommends the Board determine whether the above requests should be considered a special circumstance pursuant to ACJA § 7-208(L)(9)(c)(2)(d) that would warrant an extension or waiver of CE credits and direct staff accordingly.